

Approved: 3/13/97  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Vice Chairperson Terry Presta at 3:30 p.m. on March 12, 1997 in Room 313--S of the Capitol.

All members were present except: Representative Howell (excused)  
Representative Kline (excused)  
Representative Wagle (excused)  
Representative Shriver (excused)  
Representative Shultz (excused)  
Representative Ruff (excused)

Committee staff present: Jerry Ann Donaldson, Legislative Research Department  
Mike Heim, Legislative Research Department  
Jill Wolters, Revisor of Statutes  
Jan Brasher, Committee Secretary

Conferees appearing before the committee: Paul Morrison, District Attorney, Johnson County  
Annabeth Surbaugh, Commissioner, Third District in Johnson County  
Sue Lockett, CASA and Citizen Review Board

Others attending: See attached list

Vice Chairman Representative Presta called the meeting to order at 3:40 p.m.

**HB 2506:** **Department of social and rehabilitation services and secretary retain custody of juvenile offenders.**

**HB 2415:** **Juvenile Justice Reform.**

Paul Morrison, District Attorney, Johnson County, testified in support of **HB 2415**. The conferee stated that he a member of a group of concerned Johnson County officials who have been meeting regularly for the past few months to consider the new changes in the juvenile justice system. The conferee cited several positive aspects of the 1996 legislation and **HB 2415**. The conferee listed several recommendations dealing with the placement matrix, dual sentencing, and appropriations. (Attachment 1)

In response to an inquiry by a Committee member, Mr. Morrison stated that Johnson County uses the Youth Center infrequently instead utilizing the many programs within that community. Mr. Morrison stated that as currently proposed, the placement matrix closes off an ultimate sanction of keeping juvenile offenders longer at Youth Centers for repeat juvenile offenders unless specific matrix criteria are met. Mr. Morrison stated that he agreed with other conferees that more time is needed before implementation of the placement matrix.

Annabeth Surbaugh, Commissioner, Third District in Johnson County, testified in favor of the concept of juvenile justice reform, but expressed concerns for funding and the funding stream of the juvenile justice reforms. (Attachment 2)

Written testimony was provided by Helen Stephens on behalf of the Kansas Peace Officers Association and the Kansas Sheriffs Association in support of **HB 2415** and it addressed a concern in the area of intake and assessment. (Attachment 3)

Sue Lockett, testified on behalf of CASA and Citizen Review Board Directors expressing concerns about the placement of the Permanent Families Fund. The conferee stated that those she represents are opposed to the funds not remaining with CASA and CRB programs and placement of the Permanent Fund with the Juvenile Justice Authority. The conferee cited several reasons why placement of the Permanent Families Fund should not be with the Juvenile Justice Authority. The conferee recommended that the fund should be administered by the Office of Judicial Administration. (Attachment 4)

Representative Carmody arrived to chair the meeting.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 3:30 p.m. on March 12, 1997.

The Revisor, Jill Wolters, explained changes in each section of **HB 2415**. (Attachment 5)

The Committee members discussed the significance of the various changes with the Revisor. Representative Adkins elaborated on several changes incorporated in **HB 2415**. Mr. Mark Gleeson, in response to an inquiry, described types of risk assessment tools used in the intake and assessment process. Issues concerning dual sentencing were discussed with Representative Adkins and Committee members.

The Chair Representative Carmody closed the hearings on **HB 2506** and **HB 2415**.

The Chair reviewed the Committee's future agendas and adjourned the meeting at 5:15 p.m.

The next meeting is scheduled for March 13, 1997.

# HOUSE JUDICIARY COMMITTEE COMMITTEE GUEST LIST

DATE: 3-12-97

NAME	REPRESENTING
Phillip Lockman	Wyandotte Co. Community Corrections
Michael Youngken	Johnson Co. Comm. Corr.
Annebeth Sumbaugh	Jo. Co. Commission
Wesley Rowland	Johnson County CFO
Jorge Lopez	Johnson County Court
David Trueman	Ks BAR Assn
Joan Donnelly	SN Co. Community Corrections - DRC
Steve Blanks	Habbell & Assoc
Jim Clew	KCOAA
Jan Crant	Jo Co DA's Office
Paul Morrison	Jo. Co. D.A.
Hopsoni Kitei	Attorney General's Office
KEITH R LAUDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Mark Gleeson	Office of Judicial Administration
PAT SCHREMMER	JIAS
Sue W. Leckett	CRB/CASA
Dodie Kacey	KCA
Doug IRVIN	OJA
Billy White	Council Grove High School



**LEGISLATIVE TESTIMONY  
HB 2415**

**Paul J. Morrison, District Attorney, Johnson County, Kansas  
John C. Fritz, Assistant District Attorney, Johnson County, Kansas**

Presented to the Kansas Legislature  
House Judiciary Committee  
March 12, 1997

**I. Introduction**

Ladies and Gentlemen of the committee, thank you for your time today spent on these important issues relating to juvenile crime. Dealing with juvenile crime is important to our office, and we thank you for allowing us to speak on these matters. We are part of a group of concerned Johnson County officials who have been meeting regularly for the past few months on the new changes slated to take effect over the course of the next two years. Our group of law enforcement and judicial personnel, along with community corrections and service providers are trying to plan for the changes, and work with the legislature in a positive manner.

**II. Overall Assessment**

There are many positive aspects in 1996 HB 2900, and also in HB 2415. For example, we are pleased that state government recognizes the importance of these issues on the local communities. The changes in waiver laws (including "dual sentencing") and youth center administration in 1996 HB 2900 show a concentrated effort to address serious juvenile crimes.

HB 2415 also has some positive qualities. The detailed provisions of sections 12 through 23, requiring communities to meet and plan on how to deal with juvenile offenders at the community level will benefit each community that actively participates in the process.

**III. Specific Recommendations**

**A. Matrix**

We ask that you consider making changes to section 24, regarding the placement matrix. The intent of the matrix, to keep serious juvenile offenders at the Youth Centers for longer periods of time, is a good one. However, as currently proposed, it closes off this ultimate sanction for repeat juvenile offenders.

Our county's juvenile system is built on accountability. We charge most provable violations, and are aggressive at bringing probation revocations to court. Consequently, our filings are the highest in the state. However, this system of accountability means that juveniles may go through the continuum of services, and then face youth center placement. However, if the specific matrix criteria are not met, then this ultimate sanction is not available to these chronic offenders.

We would propose that the matrix, if ultimately deemed necessary, be modified slightly meet the needs of those repeat offenders having gone through most or all community options. In addition, we propose that the law relating to juvenile adjudications be modified within this statute (to allow multiple

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adjudications of drug or theft offenses to be boosted to felony levels). Currently, juvenile adjudications are not considered as convictions for crime enhancement purposes (this is seen in the cases of: State v. Ward, 20 Kan.App.2d 238, J.E.M., 20 Kan.App.2d 596, and G.W.A., 258 Kan. 703). This could be changed within the matrix section to allow previous juvenile adjudications to enhance the subsequent offenses for juvenile court purposes only. This allows the matrix to operate in a more consistent manner.

#### **B. Dual Sentencing**

Section 53 of HB 2415 contains procedural rules regarding "dual sentencing," or "extended jurisdiction juvenile prosecution." We understand that this is designed to offer an intermediate sanction between juvenile and adult prosecution. We believe this procedure, if used appropriately, will be an extra tool for the court system in dealing with these issues. Our concern relates to some of the procedural aspects of this new law. Prosecutors from the state of Minnesota, which has had a similar law in effect since 1994, state that unclear language regarding a violation of the juvenile sentence had caused confusion in their courts. Some believed a violation was enough for the court to impose the adult sentence, while others felt a revocation was required. Judges believing that a revocation of the juvenile sentence was required essentially gave the juveniles to bites at the apple. We propose that you consider amending these provisions to clearly state what procedures must be followed in the event of a violation of the juvenile sentence.

#### **C. Appropriations**

The procedural changes in the new laws show an increasing awareness of juvenile crime, and an effort to provide more sanctions to deal with juvenile offenders. However, a major key towards providing a comprehensive solution to this issue is that law enforcement, intake and assessment, the court system, and service providers receive appropriate funding. Procedural changes (such as increasing waivers to adult status, or providing for longer youth center stays) do have some deterrent effect. However, our experience is that most juvenile crimes are committed by kids who do not think of the consequences. Services must be provided to these youth during early referrals. This would have a greater impact in reducing juvenile crime. This means that appropriate monies must be set aside for services in addition to making procedural law changes.

These proposed changes will shift a lot of the provision of juvenile offender services from the State to the local level. This has been done in other parts of the criminal justice system, such as community corrections, and mental health reform. The key lesson from these experiences is that the change must be phased in gradually, and appropriate funding must be provided. Otherwise, these changes simply will not work. We will have new laws, with little effective sanctions. Our system could be worse off than before.

Our experience with the juvenile intake and assessment system shows how important adequate funding is. In 1995, all Kansas judicial districts were mandated to provide intake and assessment services. However, the funding initially provided to our county only allowed us to provide the service for just a few of our 18 cities. So we ask that when the time comes, that you consider providing adequate funds to provide comprehensive services for all juvenile offenders.

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Presentation to the Kansas Legislature House Judiciary  
Committee  
HB 2415  
March 12, 1997

Mr. Chairman and members of the Committee:

I am Annabeth Surbaugh, Commissioner, Third District in Johnson County, Kansas. I want to thank the Committee for this opportunity to share with you our views regarding juvenile issues as they relate to our County.

Increases in juvenile arrests and admissions to juvenile facilities are overwhelming Johnson County as well as the state of Kansas. At the same time, our local communities have fewer resources to handle these increases. The ever-increasing number of youth involved in substance abuse and violence is a national crisis. Johnson County has not been spared from this problem.

Our County has changed drastically in character over the past three decades, from a quiet suburban community to a major economic "metro center". By the year 2010, Johnson County's population is expected to account for nearly one-third of the Kansas City area's urban core and 20% of the population of Kansas.

Given the rapid growth rate of Johnson County, the large number of youth already in the system will inevitably increase, ultimately affecting the number in adult corrections programs. We recognize that the Youth Authority Committee has worked diligently and the members of this esteemed Judiciary Committee and other members of the Legislature have done a great job of formulating a plan and a vision for the comprehensive community based juvenile justice system. As a County Commissioner who lives with the reality of unfunded mandates, sometimes seemingly daily, I, and my fellow Commissioners, are extremely concerned about the potential fiscal impact of this legislation on local communities. We support what appears to mirror the Community Corrections Act in the following areas: an advisory board; the submittal of an annual plan; and the fiscal and oversight responsibilities of the Board of County Commissioners. This system has worked well for our County. It allows for programs that meet the needs of our offender population, both adult and juvenile, in ways that are in the best interest of that population as well as public safety.

Another of our concerns is what happens to the funding for juvenile offenders and children in need of care during the two year planning period?

A Juvenile Justice Commissioner has recently been selected but the foundation of a Juvenile Justice Agency is not yet in place. We fear that the potential is there for both private and public sector programs to die on the vine due to funding constraints. We also feel that these existing programs are of good quality, making a significant difference in the lives of our youth. This concern is derived from the fact that families today are struggling to address the real problems that exist in their family units. We do not want to lose effective programs that may very well be the last vestige of hope for some families who are hanging by a thread.

In closing, we support the direction the Youth Authority is taking toward more community based programs. If we had a funding option available to us locally, we would want it to look a lot like our current Community Corrections Grant Act funding. The Community Corrections model, with state-recognized standards, is one that has a proven track record. In our opinion, this effective system of local control and appropriately setting priorities for funding programs will address the unique needs of youth and families not only in our community but throughout the state of Kansas.

Thank you very much for your time.



**KANSAS PEACE OFFICERS ASSOCIATION**  
and  
**KANSAS SHERIFFS ASSOCIATION**

House Judiciary Committee  
House Bill No. 2415  
March 12, 1997

Mr. Chairman and Members of the Committee:

I am Helen Stephens, representing the Kansas Peace Officers Association and Kansas Sheriffs Association.

The organizations I represent support passage of HB 2415. We believe it will bring a long-overdue serious message with those youth who violate the law. Most juveniles know when they commit a crime that not much is going to happen to them - and in some cases that is proper, but in most, that is improper. We believe the matrix will make clear to the juveniles of Kansas that the State of Kansas has a clear policy on school issues, violations of the law, and the consequences for same.

We do have one concern regarding the intake and assessment area, but we will meet with the Commissioner and/or his designee and intake and assessment personnel over the summer to resolve this concern of input on where the juvenile offender will reside until trial.

We urge you to pass HB 2415 and allow the new Kansas policy on juveniles to proceed.

I thank you for this opportunity and I would be happy to answer your questions.

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#4

**Testimony for the House Judiciary Committee**  
**on behalf of the CASA and Citizen Review Board Directors**

Currently, there are eight (8) certified Citizen Review Board (CRB) programs and twenty-two (22) certified Court Appointed Advocate (CASA) programs in Kansas. (See attached maps for locations ) Both CASA programs and Citizen Review Boards are certified by the Office of Judicial Administration and must meet standards set out by the Kansas Supreme Court. These programs are responsible to the Administrative Judge of the Judicial District.

**Citizen Review Boards (CRBs)** utilize community members who volunteer their time to review Child in Need of Care cases in their local judicial district. The purpose of Citizen Review Boards is to ensure stable and nurturing homes for all the children reviewed and that no child remains in the system any longer than is absolutely necessary. CRB boards also exist to ensure accountability of all professionals involved. In 1995, approximately 17,000 volunteer hours were given to conduct 541 Children in Need of Care and 20 Juvenile Offender review hearings. Six hundred fifty nine (659) children were served through these reviews. CRBs are totally funded by the Permanent Families Fund and have received monies through an application process. (See attached chart )

**Court Appointed Special Advocate (CASA)** programs recruit, train and supervise community volunteers who act as the "eyes and ears" of the court and provide a voice in court for Children in Need of Care. Their mission is to advocate that children obtain permanency in as timely a manner as possible, whether that be to return home or adoption. In 1995, approximately 30,000 hours of volunteer time was given to advocate for 1854 children. Each of the CASA programs is a 501 (c) 3 organization and fund raise in their communities. Fund raising is very difficult in many areas of the state and the monies received from the Permanent Families Fund are very important to the stability of these programs. CASA's part of the Permanent Families fund has been dispersed through a formula and is not competitive. (See attached chart)

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In 1992, the legislature enacted K.S.A. 38-1801-1813 to create and fiscally support Citizen Review Boards and to aid in supporting CASA programs. The fund is mandated to be divided equally between them. Some of the monies have also been used for start-up funds for new programs. In 1996, the legislature added juvenile offender language to this law but did not appropriate additional funds to serve juvenile offenders. At this time only Douglas County CRBs have been reviewing juvenile offender cases in a pilot project to evaluate the effectiveness of that approach. They have been using grant monies from OJJDP and the Kansas Bar Foundation, not monies from the Permanent Families Fund.

The directors of both CRBs and CASA programs are concerned about the placement of the Permanent Families Fund. The Governor's budget proposal recommended abolishing the Corporation for Change who have had oversight of the fund and placing the fund with the Juvenile Justice Authority. HB 2415 gave the fund to the Juvenile Justice Authority for juvenile offender programs. We are opposed to the funds not remaining with CASA and CRB programs and placement of the Permanent Fund with the Juvenile Justice Authority for the following reasons:

1. The Juvenile Justice Authority, an agency of the executive branch, has as it's primary purpose overseeing juvenile offender services for the State of Kansas. The Permanent Families Fund was set up to provide funding for CASA and Citizen Review Boards, who primarily serve the judicial branch's Children in Need of Care. This is a conflict of purpose because of the inherent difference in serving Children in Need of Care, who are often victims, and juveniles who have committed a crime.

2. Citizen Review Boards are established and approved by local courts. They perform quasi-judicial functions. The majority of the reviews conducted by CRBs are in lieu of court reviews of dispositions. A bias exists when a program which serves a court function is administered by the executive branch of government, in this case the Juvenile Justice Authority. Placing these funds with this agency, even if they are continued to be designated for CRBs and CASA, could jeopardize the continuation of many of the current programs because of this conflict of interest.

3. CASA programs work in the court system under agreements with the court. Their primary mission is to serve Children in Need of Care, not Juvenile Offenders.

4. While we agree that there need to be programs for Juvenile Offenders and perhaps these two programs could be effective in dealing with this population, taking away these funds from intervention on behalf of Children in Need of Care could lead to an increase in the Juvenile Offender population. When abused childrens' needs are not met they rapidly disintergrate into behaviors which would ensure that end result.

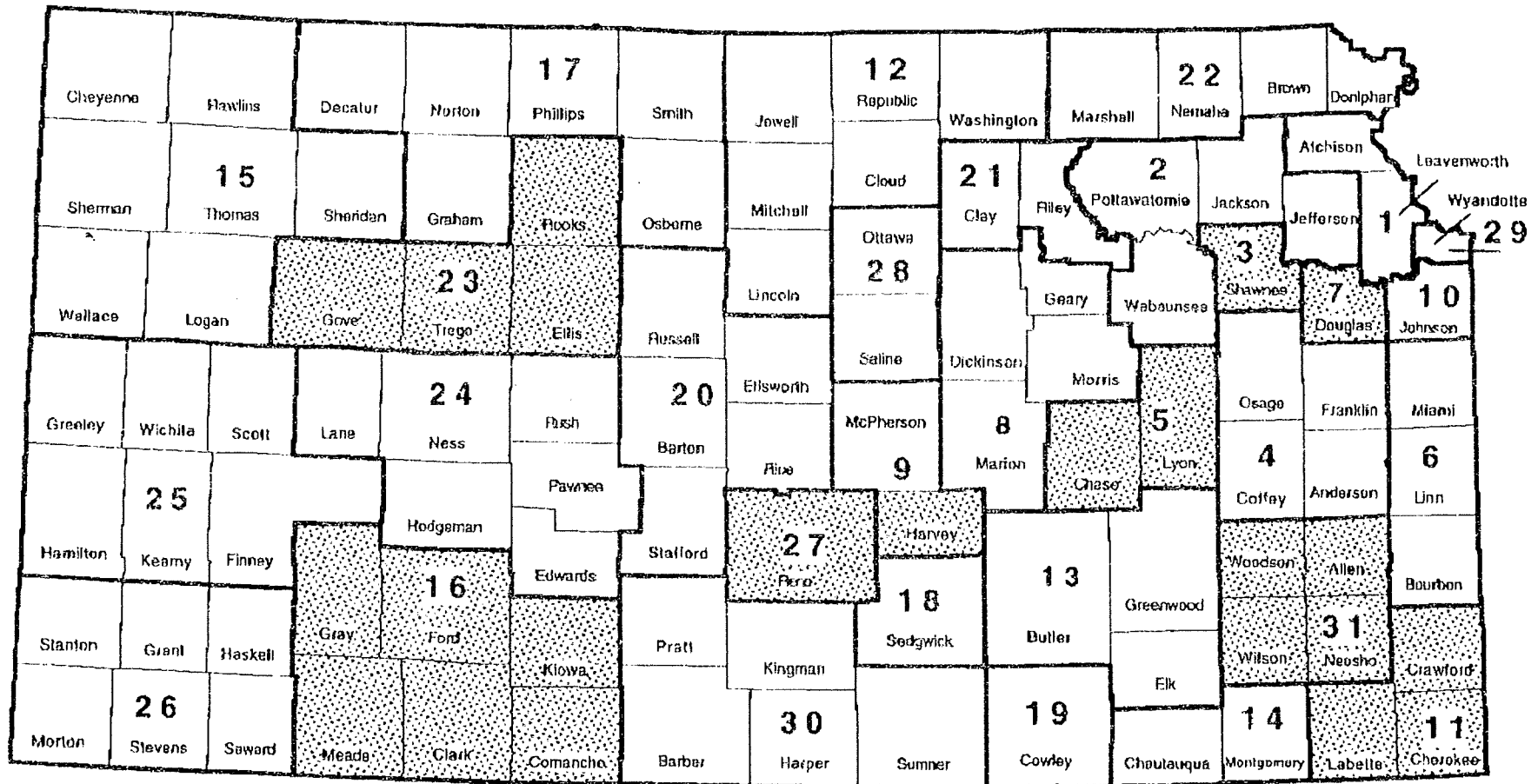
5. Citizen Review Boards are fully funded by the Permanent Families Fund, i.e. no fund- no Citizen Review Boards. Many of the CASA programs would fold or have to cut back the number of children they serve if these funds were not available to them.

**The Citizen Review Board and CASA programs recommend that the Permanent Families Fund keep the designation for CRB and CASA programs and that the fund be administered by the Office of Judicial Administration.** The funding source for these programs should be administered by the Judicial branch of government. These programs are court programs that have been encouraged and nurtured by the judiciary. Their healthy continuation is important to the court. OJA currently provides certification and yearly standards review for all CRB and CASA programs. Since 1992, OJA and the Corporation for Change have worked in partnership to provide oversight and guidance for these programs. By statute an annual report regarding the statistical analysis of the data collected by Citizen Review Boards is required. The Office of Judicial Administration is willing to administer the Permanent Families Fund and continue this vital and necessary data collection and analysis.

There has been alot of discussion about keeping the Children's Trust Fund and the Permanent Families Fund together. These funds are two distinctively different funds for different purposes. According to Dr. Ellie Wagner, Director of the National Center on Child Abuse and Neglect, a division of the United States Department of Health and Human Services Administration on Children, Youth and Families, it is not necessary for these two funds to be administered by the same agency in order to draw down the federal matching funds from the Community Based Family Resource and Support grant program. Therefore, oversight of these funds by separate agencies would not jeopardize the state's ability to maximize these federal matching funds.

CRBs and CASA's provide a vehicle for the community to voice it's concerns and work towards solutions regarding the needs of our most powerless children. The need for independent oversight by Citizen Review Boards and CASAs is even more critical as we enter the arena of privatization of the child welfare system. During this transition it is important that the changes we are making in the state do not jeopardize childrens' safety, well-being and that the system is held accountable. Citizen Review Boards and CASAs provide insight into the needs of our court-involved children to the judiciary and more importantly to the communities in which they live.

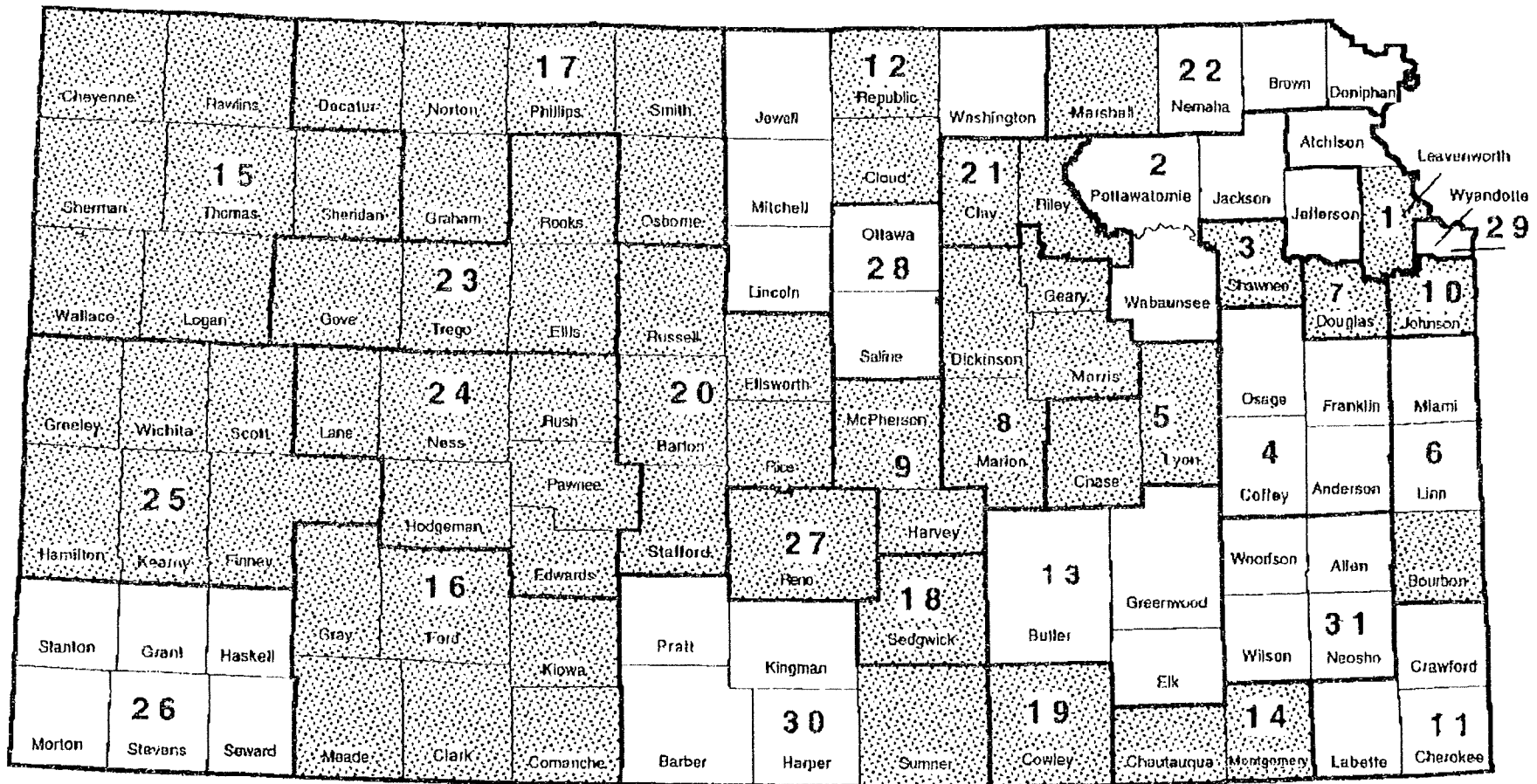
# Kansas Judicial Districts (31) Citizen Review Boards




Judicial Districts with Citizen Review Boards (9)

Effective 1/97

# Kansas Judicial Districts (31) Certified CASA Programs



 Judicial Districts with Certified CASA Programs (23)

CASA Grants - FY 1997

Judicial District	Project Name	Amount Received from Permanent Families Fund
1	CASA of Leavenworth County	7,297
3	CASA of Shawnee County	17,129
5	CASA of the Flint Hills	4,124
6	Bourbon County CASA	4,002
7	Douglas County CASA	10,327
8	CASA of the 8th Judicial District	7,237
9	CASA, A Voice for Children (Harvey Co.)	6,745
10	Johnson County CASA	10,447
12	North Central Kansas CASA	4,014
14	CASA of the 14th Judicial District	4,602
15	CASA of Northwest Kansas	3,888
16	CASA - Children Worth Saving (Ford Co.)	5,347
17	CASA of the 17th Judicial District	3,264
18	Roots & Wings (Sedgwick Co.)	15,069
19	CASA of Cowley Co.	4,658
20	Central Kansas CASA	5,199
21	Sunflower CASA (Riley Co.)	6,206
22	Marshall County CASA	3,261
23	CASA of the High Plains (Clay Co.)	5,168
24	24th Judicial District CASA	3,579
25	Spirit of the Plains CASA (Finney Co.)	9,004
27	CASA of Reno County	9,636
30	Sumner County CASA	4,798
	<b>TOTAL</b>	<b>155,001</b>

CRB Grants - FY 1997

Judicial District	Location	Amount Received from Permanent Families Fund
3	Shawnee County	24,381
5	Lyon County	7,607
7	Douglas County	36,362
9	Harvey County	7,378
11 & 13	Crawford County	24,363
16	Ford County	14,265
23	Clay County	32,425
27	Reno County	12,471
	<b>TOTAL</b>	<b>159,252</b>



# HOUSE BILL No. 2415

By Committee on Judiciary

2-14

9 AN ACT concerning juveniles; amending K.S.A. 20-1a11, 21-3612, as  
10 amended by section 25 of chapter 229 of the 1996 Session Laws of  
11 Kansas, 22-4701, as amended by section 27 of chapter 229 of the 1996  
12 Session Laws of Kansas, 38-1604, as amended by section 42 of chapter  
13 229 of the 1996 Session Laws of Kansas, 38-1610, as amended by  
14 section 50 of chapter 229 of the 1996 Session Laws of Kansas, 38-1618,  
15 as amended by section 59 of chapter 229 of the 1996 Session Laws of  
16 Kansas, 38-1632, as amended by section 64 of chapter 229 of the 1996  
17 Session Laws of Kansas, 38-1633, as amended by section 65 of chapter  
18 229 of the 1996 Session Laws of Kansas, 38-1636, as amended by  
19 section 67 of chapter 229 of the 1996 Session Laws of Kansas, 38-1661,  
20 as amended by section 79 of chapter 229 of the 1996 Session Laws of  
21 Kansas, 38-1662, as amended by section 80 of chapter 229 of the 1996  
22 Session Laws of Kansas, 38-1674, as amended by section 89 of chapter  
23 229 of the 1996 Session Laws of Kansas, 72-978, as amended by section  
24 120 of chapter 229 of the 1996 Session Laws of Kansas, 75-5291, 76-  
25 2101, as amended by section 140 of chapter 229 of the 1996 Session  
26 Laws of Kansas, 76-2101a, as amended by section 141 of chapter 229  
27 of the 1996 Session Laws of Kansas, 76-2101b, as amended by section  
28 142 of chapter 229 of the 1996 Session Laws of Kansas, 76-2125, as  
29 amended by section 145 of chapter 229 of the 1996 Session Laws of  
30 Kansas, 76-2128, as amended by section 146 of chapter 229 of the  
31 1996 Session Laws of Kansas, 76-2201, as amended by section 147 of  
32 chapter 229 of the 1996 Session Laws of Kansas, 76-2201a, as amended  
33 by section 148 of chapter 229 of the 1996 Session Laws of Kansas, and  
34 76-2219, as amended by section 149 of chapter 229 of the 1996 Session  
35 Laws of Kansas, K.S.A. 1995 Supp. 38-1602, as amended by section  
36 41 of chapter 229 of the 1996 Session Laws of Kansas, 38-1608, as  
37 amended by section 48 of chapter 229 of the 1996 Session Laws of  
38 Kansas, 38-1611, as amended by section 51 of chapter 229 of the 1996  
39 Session Laws of Kansas, 38-1635, as amended by section 66 of chapter  
40 229 of the 1996 Session Laws of Kansas, 38-1663, as amended by  
41 section 81 of chapter 229 of the 1996 Session Laws of Kansas, 38-1663,  
42 as amended by section 57 of this bill, 38-1668, as amended by section  
43 85 of chapter 229 of the 1996 Session Laws of Kansas, 38-1671, as

Explanation of HB 2415.  
March 10, 1997

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Attachment 5

1 amended by section 86 of chapter 229 of the 1996 Session Laws of  
 2 Kansas, 38-1673, as amended by section 88 of chapter 229 of the 1996  
 3 Session Laws of Kansas, 38-1675, as amended by section 90 of chapter  
 4 229 of the 1996 Session Laws of Kansas, 38-1676, as amended by  
 5 section 91 of chapter 229 of the 1996 Session Laws of Kansas, and 74-  
 6 9501, as amended by section 127 of chapter 229 of the 1996 Session  
 7 Laws of Kansas, and K.S.A. 1996 Supp. 21-2511, 21-3413, 28-170, 38-  
 8 1507, 38-1508, 38-1522, 38-1613, 38-1614, 38-1640, 38-1692, 38-  
 9 16,126, 38-16,128, 38-1808, 40-1909, 40-19c09, 72-89a02, 74-8810,  
 10 75-2935, 75-2935b, 75-6102, 75-6104, 75-6801, 75-7001, 75-7007,  
 11 75-7008, 75-7009, 75-7021, 75-2023, 75-7024, 75-7025, 75-7026, 75-  
 12 7028, 76-6b04, 76-6b09, 76-3201 and 79-4803 and repealing the ex-  
 13 isting sections; also repealing K.S.A. 21-2511, as amended by section  
 14 22 of chapter 229 of the 1996 Session Laws of Kansas, 21-3413, as  
 15 amended by section 23 of chapter 229 of the 1996 Session Laws of  
 16 Kansas, 21-3611, as amended by section 24 of chapter 229 of the 1996  
 17 Session Laws of Kansas, 28-170, as amended by section 28 of chapter  
 18 229 of the 1996 Session Laws of Kansas, 38-1613, as amended by  
 19 section 52 of chapter 229 of the 1996 Session Laws of Kansas, 38-1614,  
 20 as amended by section 53 of chapter 229 of the 1996 Session Laws of  
 21 Kansas, 38-1640, as amended by section 71 of chapter 229 of the 1996  
 22 Session Laws of Kansas, 38-1672, as amended by section 87 of chapter  
 23 229 of the 1996 Session Laws of Kansas, 40-1909, as amended by  
 24 section 110 of chapter 229 of the 1996 Session Laws of Kansas, and  
 25 74-5363, as amended by section 124 of chapter 229 of the 1996 Session  
 26 Laws of Kansas, K.S.A. 1995 Supp. 38-1692, as amended by section  
 27 96 of chapter 229 of the 1996 Session Laws of Kansas, 40-19c09, as  
 28 amended by section 113 of chapter 229 of the 1996 Session Laws of  
 29 Kansas, and 74-8810, as amended by section 126 of chapter 229 of the  
 30 1996 Session Laws of Kansas and K.S.A. 1996 Supp. 75-7010.

31  
 32 *Be it enacted by the Legislature of the State of Kansas:*

33 New Section 1. (a) In order to provide technical assistance to com-  
 34 munities, help facilitate community collaboration and assist in coordinat-  
 35 ing a statewide system of community based service providers, pursuant  
 36 to K.S.A. 75-7024, and amendments thereto, the commissioner of juvenile  
 37 justice shall appoint a community planning team convener and a com-  
 38 munity planning team facilitator in each judicial district. The commis-  
 39 sioner may appoint a convener and facilitator for a multiple district plan-  
 40 ning team, if, in the commissioner's opinion, such multiple district  
 41 planning team best furthers the purposes of the juvenile justice reform  
 42 act. The convener and facilitator may be compensated by the grant funds.  
 43 (b) The community planning team convener shall invite representa-

Community planning process. The juvenile justice reform act of 1996 calls for a restructuring of juvenile offender placements to maximize local, community-based placements and reserve expensive, state residential placement for the serious, chronic and violent juvenile offender. The Kansas Youth Authority (KYA) has developed a placement matrix (Section 24, page 18, line 10) which will be in effect July 1, 1999, and which defines those juvenile offenders that merit classification as serious, chronic or violent juvenile offenders. Those juvenile offenders that do not merit such classification will be subject to a community based placement. The provisions of New Section 1 require the commissioner of juvenile justice to assist communities in the development of a community-based plan which will create and implement a juvenile justice program in each judicial district. The juvenile justice programs should be in effect on and after July 1, 1999 when the placement matrix is enacted.

5-2

1 tives from the following groups and agencies to be a part of the com-  
2 munity planning team: The courts, court services, public education, ju-  
3 venile community correctional services, the county or district attorney,  
4 the public defender's office or private defense counsel, law enforcement,  
5 juvenile detention, prevention services, the health care professionals,  
6 physical health services, juvenile intake and assessment, city officials,  
7 county officials, private service providers, the department of social and  
8 rehabilitation services, the business community, the religious community,  
9 youth and such other representatives as the convener deems necessary.

10 (c) The commissioner, or the commissioner's designee shall serve as  
11 an ex officio member of each community planning team.

12 (d) All proceedings of the community planning team and any com-  
13 mittee or subcommittee of the team shall be open to the public in ac-  
14 cordance with and subject to the provisions of K.S.A. 75-4317 to 75-4320,  
15 inclusive, and amendments thereto. The records of the community  
16 planning team shall be open to public inspection at all reasonable times.

17 (e) Between July 1, 1997, and June 30, 1999, the community planning  
18 team shall engage in strategic planning to develop programs, services and  
19 placement options as are necessary and appropriate for each judicial dis-  
20 trict's juvenile justice program.

21 (1) Between July 1, 1997, and June 30, 1998, the planning shall focus  
22 on community risk assessment and the establishment of community pri-  
23 orities.

24 (2) Between July 1, 1998, and June 30, 1999, the planning shall focus  
25 on the development of community placement options, the creation of a  
26 continuum of community services and sanctions for juvenile offenders  
27 and an effective case management system.

28 (f) The commissioner shall provide training and expertise for com-  
29 munities during the strategic planning process of the community planning  
30 team.

31 (g) On July 1, 1999, each judicial district or multiple district judicial  
32 district shall have developed and be prepared to implement a juvenile  
33 justice program. On or before June 30, 1999, such program shall be ac-  
34 credited by the commissioner.

35 (h) Each juvenile justice program shall include, but not be limited to,  
36 local prevention services, juvenile intake and assessment, juvenile deten-  
37 tion and attendant care, immediate intervention programs, aftercare serv-  
38 ices, graduated sanctions programs, probation programs, conditional re-  
39 lease programs, sanctions for violations of probation terms or programs,  
40 sanctions for violations of conditional release programs and out-of-home  
41 placements.

42 (i) Each juvenile justice program shall demonstrate that in the judicial  
43 district is a continuum of community based placement options with suf-

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1 ficient capacity to accommodate community needs.

2 (j) Each juvenile justice program shall participate in the juvenile jus-  
3 tice information system, intake and assessment system and the utilization  
4 of a standardized risk assessment data.

5 (k) (1) There is hereby created in the state treasury a juvenile justice  
6 community planning fund. Money credited to the fund shall be used  
7 solely for the purpose of making grants to community planning teams, as  
8 established in this section, to assist with the community planning process  
9 of determining juvenile justice programs for the judicial district.

10 (2) All expenditures from the juvenile justice community planning  
11 fund shall be made in accordance with appropriations acts upon warrants  
12 of the director of accounts and reports issued pursuant to vouchers ap-  
13 proved by the commissioner of juvenile justice or by a person or persons  
14 designated by the commissioner.

15 (3) The commissioner of juvenile justice may apply for, receive and  
16 accept money from any source for the purposes for which money in the  
17 juvenile justice community planning fund may be expended. Upon receipt  
18 of any such money, the commissioner shall remit the entire amount at  
19 least monthly to the state treasurer, who shall deposit it in the state treas-  
20 ury and credit it to the juvenile justice community planning fund.

21 (4) On or before the 10th of each month, the director of accounts  
22 and reports shall transfer from the state general fund to the juvenile  
23 justice community planning fund interest earnings based on:

24 (A) The average daily balance of moneys in the juvenile justice com-  
25 munity planning fund for the preceding month; and

26 (B) the net earnings rate of the pooled money investment portfolio  
27 for the preceding month.

28 (l) (1) There is hereby created in the state treasury a juvenile justice  
29 community initiative fund. Money credited to the fund shall be used  
30 solely for the purpose of making grants to communities to assist in sup-  
31 porting field services and juvenile justice programs in the judicial district.

32 (2) All expenditures from the juvenile justice community initiative  
33 fund shall be made in accordance with appropriations acts upon warrants  
34 of the director of accounts and reports issued pursuant to vouchers ap-  
35 proved by the commissioner of juvenile justice or by a person or persons  
36 designated by the commissioner.

37 (3) The commissioner of juvenile justice may apply for, receive and  
38 accept money from any source for the purposes for which money in the  
39 juvenile justice community initiative fund may be expended. Upon receipt  
40 of any such money, the commissioner shall remit the entire amount at  
41 least monthly to the state treasurer, who shall deposit it in the state treas-  
42 ury and credit it to the juvenile justice community initiative fund.

43 (4) On or before the 10th of each month, the director of accounts

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1 and reports shall transfer from the state general fund to the juvenile  
2 justice community initiative fund interest earnings based on:

3 (A) The average daily balance of moneys in the juvenile justice com-  
4 munity initiative fund for the preceding month; and

5 (B) the net earnings rate of the pooled money investment portfolio  
6 for the preceding month.

7 New Sec. 2. (a) Each judicial district may establish a supervision fee  
8 schedule to be charged a juvenile offender, or the parent or guardian of  
9 such juvenile offender, if the juvenile offender is under the age of 18, for  
10 services rendered the juvenile who is:

11 (1) Placed on probation;

12 (2) placed in juvenile community correctional services;

13 (3) placed in a community placement;

14 (4) placed on conditional release pursuant to K.S.A. 38-1673, and  
15 amendments thereto; or

16 (5) using any other juvenile justice program available in the judicial  
17 district.

18 (b) The supervision fee established by this section shall be charged  
19 and collected by the clerk of the district court.

20 (c) All moneys collected by this section shall be used to fund com-  
21 munity juvenile justice programs.

22 (d) The fee schedule established by the judicial district shall be based  
23 on the cost of programs and services provided in the judicial district and  
24 shall include the cost of case management.

25 (e) The juvenile offender shall not be eligible for early release from  
26 supervision unless the supervision fee has been paid.

27 (f) An annual report shall be filed with the commissioner of juvenile  
28 justice from every judicial district concerning the supervision fees. The  
29 report shall include figures concerning: (1) The amount of supervision  
30 fees ordered to be paid; (2) the amount of supervision fees actually paid;  
31 and (3) the amount of expenditures and to whom such expenditures were  
32 paid.

33 (g) The administrative judge of the judicial district shall adopt local  
34 district court rules to establish fees and implement the other provisions  
35 of this section.

36 New Sec. 3. On and after July 1, 1997:

37 (a) Except as otherwise provided by sections 3 through 7, and amend-  
38 ments thereto, all of the powers, duties and functions of the department  
39 of corrections and the secretary of corrections concerning juvenile com-  
40 munity correctional services are hereby transferred to and conferred and  
41 imposed upon the juvenile justice authority and the commissioner of ju-  
42 venile justice established by K.S.A. 1996 Supp. 75-7001, and amendments  
43 thereto.

— New Section 2 allows judicial districts to charge supervision fees to assist in funding community juvenile justice programs.

— New sections 3 through 7 transfer the department of corrections duties in regard to juvenile community correctional services to the juvenile justice authority and the commissioner of juvenile justice.

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1 (b) Except as otherwise provided by sections 3 through 7, and amend-  
2 ments thereto, the juvenile justice authority and the commissioner of  
3 juvenile justice shall be the successor in every way to the powers, duties  
4 and functions of the department of corrections and the secretary of cor-  
5 rections concerning juvenile community correctional services in which  
6 the same were vested prior to the effective date of this section. Every act  
7 performed in the exercise of such powers, duties and functions by or  
8 under the authority of the juvenile justice authority or the commissioner  
9 of juvenile justice concerning juvenile community correctional services  
10 established by sections 3 through 7, and amendments thereto, shall be  
11 deemed to have the same force and effect as if performed by the de-  
12 partment of corrections or the secretary of corrections, respectively, in  
13 which such powers, duties and functions were vested prior to the effective  
14 date of this section.

15 (c) Except as otherwise provided by sections 3 through 7, and amend-  
16 ments thereto, whenever the department of corrections, or words of like  
17 effect concerning juvenile community correctional services, is referred to  
18 or designated by a statute, contract or other document, such reference  
19 or designation shall be deemed to apply to the juvenile justice authority.

20 (d) Except as otherwise provided by sections 3 through 7, and amend-  
21 ments thereto, whenever the secretary of corrections, or words of like  
22 effect concerning juvenile community correctional services, is referred to  
23 or designated by a statute, contract or other document, such reference  
24 or designation shall be deemed to apply to the commissioner of juvenile  
25 justice.

26 (e) All rules and regulations of the department of corrections or the  
27 secretary of corrections concerning juvenile community correctional serv-  
28 ices in existence on the effective date of this section shall continue to be  
29 effective and shall be deemed to be duly adopted rules and regulations  
30 of the commissioner of juvenile justice until revised, amended, revoked  
31 or nullified pursuant to law.

32 (f) All orders and directives of the department of corrections or the  
33 secretary of corrections concerning juvenile community correctional serv-  
34 ices in existence on the effective date of this section shall continue to be  
35 effective and shall be deemed to be orders and directives of the juvenile  
36 justice authority until revised, amended or nullified pursuant to law.

37 (g) On the effective date of this section, the juvenile justice authority  
38 shall succeed to whatever right, title or interest the department of cor-  
39 rections has acquired in any real property concerning juvenile community  
40 correctional services in this state, and the authority shall hold the same  
41 for and in the name of the state of Kansas. On and after the effective  
42 date of this section, whenever any statute, contract, deed or other docu-  
43 ment concerns the power or authority of the department of corrections

1 or the secretary of corrections concerning juvenile community correc-  
2 tional services to acquire, hold or dispose of real property or any interest  
3 therein, the juvenile justice authority shall succeed to such power or au-  
4 thority.

5 (h) The juvenile justice authority and the commissioner of juvenile  
6 justice shall be continuations of the department of corrections and the  
7 secretary of corrections concerning juvenile community correctional serv-  
8 ices.

9 New Sec. 4. Except as otherwise provided in sections 3 through 7,  
10 and amendments thereto, on July 1, 1997, officers and employees who,  
11 immediately prior to such date, were engaged in the performance of pow-  
12 ers, duties or functions of the department of corrections concerning ju-  
13 venile community correctional services which are transferred by sections  
14 3 through 7, and amendments thereto, or who become a part of the  
15 juvenile justice authority, or the powers, duties and functions of which  
16 are transferred to the juvenile justice authority, and who, in the opinion  
17 of the commissioner of juvenile justice, are necessary to perform the  
18 powers, duties and functions of the juvenile justice authority, shall be  
19 transferred to, and shall become officers and employees of the juvenile  
20 justice authority. Any such officer or employee shall retain all retirement  
21 benefits and all rights of civil service which had accrued to or vested in  
22 such officer or employee prior to the effective date of this section. The  
23 service of each such officer and employee so transferred shall be deemed  
24 to have been continuous. All transfers and any abolition of personnel  
25 positions in the classified service under the Kansas civil service act shall  
26 be in accordance with civil service laws and any rules and regulations  
27 adopted thereunder.

28 New Sec. 5. On and after July 1, 1997:

29 (a) When any conflict arises as to the disposition of any power, func-  
30 tion or duty or the unexpended balance of any appropriation as a result  
31 of any abolition, transfer, attachment or change made by or under au-  
32 thority of sections 3 through 7, and amendments thereto, such conflict  
33 shall be resolved by the governor, whose decision shall be final.

34 (b) The juvenile justice authority shall succeed to all property and  
35 records which were used for or pertain to the performance of the powers,  
36 duties and functions transferred to the juvenile justice authority. Any  
37 conflict as to the proper disposition of property or records arising under  
38 this section, and resulting from the transfer or attachment of any state  
39 agency, or all or part of the powers, duties and functions thereof, shall be  
40 determined by the governor, whose decision shall be final.

41 New Sec. 6. On and after July 1, 1997:

42 (a) The juvenile justice authority shall have the legal custody of all  
43 records, memoranda, writings, entries, prints, representations or combi-

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1 nations thereof of any act, transaction, occurrence or event of the de-  
2 partment of corrections concerning juvenile community correctional serv-  
3 ices and any agency or office transferred thereto under sections 3 through  
4 7, and amendments thereto.

5 (b) No suit, action or other proceeding, judicial or administrative,  
6 lawfully commenced, or which could have been commenced, by or against  
7 any state agency mentioned in sections 3 through 7, and amendments  
8 thereto, or by or against any officer of the state in such officer's official  
9 capacity or in relation to the discharge of such officer's official duties,  
10 shall abate by reason of the governmental reorganization effected under  
11 the provisions of sections 3 through 7, and amendments thereto. The  
12 court may allow any such suit, action or other proceeding to be main-  
13 tained by or against the successor of any such state agency or any officer  
14 affected.

15 (c) No criminal action commenced or which could have been com-  
16 menced by the state shall abate by the taking effect of sections 3 through  
17 7, and amendments thereto.

18 New Sec. 7. (a) On and after July 1, 1997, the balance of all funds  
19 appropriated and reappropriated to the department of corrections con-  
20 cerning juvenile community correctional services is hereby transferred to  
21 the juvenile justice authority and shall be used only for the purpose for  
22 which the appropriation was originally made.

23 (b) On and after July 1, 1997, the liability for all accrued compensa-  
24 tion or salaries of officers and employees who, immediately prior to such  
25 date, were engaged in the performance of powers, duties or functions of  
26 the department of corrections concerning juvenile community correc-  
27 tional services, or who become a part of the juvenile justice authority, or  
28 the powers, duties and functions of which are transferred to the juvenile  
29 justice authority provided for by sections 3 through 7, and amendments  
30 thereto, shall be assumed and paid by the juvenile justice authority.

31 New Sec. 8. The commissioner of juvenile justice may make grants  
32 to counties for the development, implementation, operation and improve-  
33 ment of juvenile community correctional services including, but not lim-  
34 ited to, restitution programs, victim services programs, balanced and re-  
35 storative justice programs, preventive or diversionary correctional  
36 programs, community juvenile corrections centers and facilities for the  
37 detention or confinement, care or treatment of juveniles being detained  
38 or adjudged to be a juvenile offender.

39 New Sec. 9. (a) Subject to the other provisions of sections 8 through  
40 23, and amendments thereto, each county may qualify to receive grants  
41 under sections 8 through 23, and amendments thereto, by complying with  
42 the provisions of section 22, and amendments thereto.

43 (b) Subject to the requirements of centralized administration and

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New Sections 8 through 23 are patterned after K.S.A. 75-5291 through 75-52,111, transferring the duties of department of corrections to the juvenile justice authority and the commissioner of juvenile justice concerning juvenile community correctional services.



1 control of correctional services under section 22, and amendments  
2 thereto, and the provisions of agreements between cooperating counties  
3 under subsection (c), the respective board of county commissioners shall  
4 retain all authority for the expenditure of moneys, including grants re-  
5 ceived under sections 8 through 23, and amendments thereto, and for  
6 the implementation of and the operations under the comprehensive plan  
7 approved by the commissioner of juvenile justice. The comprehensive  
8 plan shall be reviewed and approved by the board of county commission-  
9 ers of each county to which the plan pertains prior to submission to the  
10 commissioner of juvenile justice for approval.

11 (c) The boards of county commissioners of all counties cooperating  
12 together to establish a juvenile corrections advisory board and to adopt a  
13 comprehensive plan pursuant to sections 8 through 23, and amendments  
14 thereto, may enter into cooperative agreements to qualify their respective  
15 counties for grants under sections 8 through 23, and amendments thereto.  
16 Such counties shall cooperate and enter into such agreements for all pur-  
17 poses of sections 8 through 23, and amendments thereto, in the manner  
18 prescribed by K.S.A. 12-2901 through 12-2907, and amendments thereto,  
19 to the extent that those statutes do not conflict with the provisions of  
20 sections 8 through 23, and amendments thereto.

21 New Sec. 10. In order to assist a county or group of cooperating  
22 counties which has established a juvenile corrections advisory board but  
23 which does not have a comprehensive plan which has been approved by  
24 the commissioner of juvenile justice and which requires financial aid to  
25 defray all or part of the expenses incurred by juvenile corrections advisory  
26 board members in discharging their official duties pursuant to section 16,  
27 and amendments thereto, the commissioner of juvenile justice, upon re-  
28 ceipt of resolutions by the board or boards of county commissioners, or  
29 the administrative authority established by cooperating counties, certify-  
30 ing the need for and inability to pay such expenses, may pay quarterly to  
31 the county or counties an amount determined by the commissioner based  
32 on existing experience of other juvenile corrections advisory boards.

33 New Sec. 11. (a) In accordance with K.S.A. 77-415 et seq., and  
34 amendments thereto, the commissioner of juvenile justice shall adopt  
35 rules and regulations necessary for the implementation and administra-  
36 tion of sections 8 through 23, and amendments thereto, and as prescribed  
37 by those sections. The commissioner of juvenile justice shall provide con-  
38 sultation and technical assistance to counties and juvenile corrections ad-  
39 visory boards to aid them in the development of comprehensive plans  
40 under sections 8 through 23, and amendments thereto.

41 (b) Sections 8 through 23, and amendments thereto, shall be admin-  
42 istered by the commissioner of juvenile justice or by officers and em-  
43 ployees of the juvenile justice authority designated by the commissioner

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1 to the extent that authority to do so is delegated by the commissioner,  
2 except that the authority to adopt rules and regulations under sections 8  
3 through 23, and amendments thereto, shall not be delegated.

4 New Sec. 12. For the purposes of sections 8 through 23, and amend-  
5 ments thereto, and to provide for the correctional services described in  
6 section 8, and amendments thereto, a county or group of cooperating  
7 counties, through their boards of county commissioners, or administrative  
8 bodies established by cooperating counties, may:

9 (a) Acquire by any lawful means, including purchase, lease or transfer  
10 of custodial control, the lands, buildings and equipment necessary and  
11 incidental to such purposes;

12 (b) enter into contracts, which are necessary and incidental to such  
13 purposes;

14 (c) determine and establish the administrative structure best suited  
15 to the efficient administration and delivery of such correctional services;

16 (d) employ a director and such other officers, employees, and agents  
17 as deemed necessary to carry out the provisions of sections 8 through 23,  
18 and amendments thereto;

19 (e) make grants in accordance with the comprehensive plan of funds  
20 provided by grant payments under section 20, and amendments thereto,  
21 to corporations organized not for profit, for development, operation and  
22 improvement of such correctional services; and

23 (f) use unexpended funds, accept gifts, grants and subsidies from any  
24 lawful source, and apply for, accept and expend federal funds.

25 New Sec. 13. (a) Except as provided in section 10, and amendments  
26 thereto, no county shall be qualified to receive grants under sections 8  
27 through 23, and amendments thereto, unless and until the comprehensive  
28 plan for such county, or the group of counties with which such county is  
29 cooperating, is approved by the commissioner of juvenile justice.

30 (b) The commissioner of juvenile justice shall adopt rules and regu-  
31 lations establishing additional requirements for receipt of grants under  
32 sections 8 through 23, and amendments thereto, standards for the op-  
33 eration of the correctional services described in section 8, and amend-  
34 ments thereto, and standards for performance evaluation of the correc-  
35 tional services described in section 8, and amendments thereto. In order  
36 to remain eligible for grants the county or group of cooperating counties  
37 shall substantially comply with the operating standards established by the  
38 commissioner of juvenile justice.

39 (c) The commissioner of juvenile justice shall review annually the  
40 comprehensive plans submitted by a county or group of cooperating  
41 counties and the facilities and programs operated under such plans. The  
42 commissioner of juvenile justice is authorized to examine books, records,  
43 facilities and programs for purposes of recommending needed changes

1 or improvements.

2 (d) In reviewing the comprehensive plan or any annual recommen-  
3 dations or revisions thereto, the commissioner of juvenile justice shall  
4 limit the scope of the review of the juvenile corrections advisory board's  
5 statement of priorities, needs, budget, policies and procedures, to the  
6 determination that such statement does not directly conflict with rules  
7 and regulations and operating standards adopted pursuant to subsection  
8 (b) and sections 8 through 23, and amendments thereto.

9 (e) When the commissioner of juvenile justice determines that there  
10 are reasonable grounds to believe that a county or group of cooperating  
11 counties is not in substantial compliance with the minimum operating  
12 standards adopted pursuant to this section, at least 30 days' notice shall  
13 be given the county or to each county in the group of cooperating counties  
14 and a hearing shall be held in accordance with the provisions of the Kansas  
15 administrative procedure act to ascertain whether there is substantial  
16 compliance or satisfactory progress being made toward compliance. If the  
17 commissioner of juvenile justice determines at such hearing that there is  
18 not substantial compliance or satisfactory progress being made toward  
19 compliance, the commissioner of juvenile justice may suspend all or a  
20 portion of any grant under sections 8 through 23, and amendments  
21 thereto, until the required standards of operation have been met.

22 New Sec. 14. (a) Subject to the other provisions of this section, each  
23 juvenile corrections advisory board established under sections 8 through  
24 23, and amendments thereto, shall consist of 12 or more members who  
25 shall be representative of law enforcement, prosecution, the judiciary,  
26 education, corrections, ethnic minorities, the social services and the gen-  
27 eral public and shall be appointed as follows:

28 (1) The law enforcement representatives shall be:

29 (A) The sheriff or, if two or more counties are cooperating, the sheriff  
30 selected by the sheriffs of those counties, or the designee of that sheriff;  
31 and

32 (B) the chief of police of the city with the largest population at the  
33 time the board is established or, if two or more counties are cooperating,  
34 the chief of police selected by the chiefs of police of each city with the  
35 largest population in each county at the time the board is established, or  
36 the designee of that chief of police, except that for purposes of this par-  
37 agraph in the case of a county having consolidated law enforcement and  
38 not having a sheriff or any chiefs of police, "sheriff" means the law en-  
39 forcement director and "chief of police of the city with the largest pop-  
40 ulation" or "chief of police" means a law enforcement officer, other than  
41 the law enforcement director, appointed by the county law enforcement  
42 agency for the purposes of this section;

43 (2) the prosecution representative shall be the county or district at-

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1 torney or, if two or more counties are cooperating, a county or district  
2 attorney selected by the county and district attorneys of those counties,  
3 or the designee of that county or district attorney;

4 (3) the judiciary representative shall be the administrative judge of  
5 the district court of the judicial district containing the county or group of  
6 counties or, if two or more counties in two or more judicial districts are  
7 cooperating, the administrative judge of each such judicial district, or a  
8 judge of the district court designated by each such administrative judge;

9 (4) the education representative shall be an educational professional  
10 appointed by the board of county commissioners of the county or, if two  
11 or more counties are cooperating, by the boards of county commissioners  
12 of those counties;

13 (5) a court services officer designated by the administrative judge of  
14 the district court of the judicial district containing the county or group of  
15 counties or, if counties in two or more judicial districts are cooperating,  
16 a court services officer designated by the administrative judges of those  
17 judicial districts;

18 (6) the board of county commissioners of the county shall appoint or,  
19 if two or more counties are cooperating, the boards of county commis-  
20 sioners of those counties shall together appoint three additional members  
21 of the juvenile corrections advisory board or, if necessary, additional  
22 members so that each county which is not otherwise represented on the  
23 board is represented by at least one member of such board; and

24 (7) three members of the juvenile corrections advisory board shall be  
25 appointed by cities located within the county or group of cooperating  
26 counties as follows:

27 (A) If there are three or more cities of the first class, the governing  
28 body of each of the three cities of the first class having the largest pop-  
29 ulations shall each appoint one member;

30 (B) if there are two cities of the first class, the governing body of the  
31 larger city of the first class shall appoint two members and the governing  
32 body of the smaller city of the first class shall appoint one member;

33 (C) if there is only one city of the first class, the governing body of  
34 such city shall appoint all three members; and

35 (D) if there are no cities of the first class, the governing body of each  
36 of the three cities having the largest populations shall each appoint one  
37 member.

38 (b) If possible, of the members appointed by the boards of county  
39 commissioners in accordance with subsection (a)(6) and by the governing  
40 bodies of cities in accordance with subsection (a)(7), members shall be  
41 representative of one or more of the following:

42 (1) Public or private social service agencies;

43 (2) ex-offenders;

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1 (3) the health care professions; and

2 (4) the general public.

3 (c) At least two members of each juvenile corrections advisory board  
4 shall be representative of ethnic minorities and no more than  $\frac{2}{3}$  of the  
5 members of each board shall be members of the same sex.

6 (d) In lieu of the provisions of subsections (a) through (c), a group of  
7 cooperating counties as provided in subsection (a)(2) of section 22, and  
8 amendments thereto, may establish a juvenile corrections advisory board  
9 which such board's membership shall be determined by such group of  
10 counties through cooperative action pursuant to the provisions of K.S.A.  
11 12-2901 through 12-2907, and amendments thereto, to the extent that  
12 those statutes do not conflict with the provisions of sections 8 through  
13 23, and amendments thereto, except that if two or more counties in two  
14 or more judicial districts are cooperating, the administrative judge of each  
15 such judicial district, or a judge of the district court designated by each  
16 such administrative judge shall be a member of such board. In determin-  
17 ing the membership of the juvenile corrections advisory board pursuant  
18 to this subsection, such group of counties shall appoint members who are  
19 representative of law enforcement, prosecution, the judiciary, education,  
20 corrections, ethnic minorities, the social services and the general public.  
21 Any juvenile corrections advisory board established and the membership  
22 determined pursuant to this subsection shall be subject to the approval  
23 of the commissioner of juvenile justice.

24 (e) In lieu of the provisions of subsections (a) through (d), any county  
25 or counties may designate the corrections advisory board, as established  
26 in K.S.A. 75-5297, and amendments thereto, as such county or counties  
27 juvenile corrections advisory board.

28 New Sec. 15. (a) Members of a juvenile corrections advisory board  
29 appointed in accordance with section 14, and amendments thereto, shall  
30 serve for terms of two years from and after the date of their appointment  
31 and shall remain in office until their successors are duly appointed. All  
32 vacancies in a juvenile corrections advisory board shall be filled for the  
33 unexpired term in the manner that the position was originally filled. Each  
34 juvenile corrections advisory board shall elect its own officers.

35 (b) All proceedings of the juvenile corrections advisory board and any  
36 committee or subcommittee of the board shall be open to the public in  
37 accordance with and subject to the provisions of K.S.A. 75-4317 to 75-  
38 4320, inclusive, and amendments thereto. All votes of members of the  
39 juvenile corrections advisory board shall be recorded and shall become  
40 matters of public record.

41 (c) The juvenile corrections advisory board shall promulgate and im-  
42 plement rules concerning the conduct of proceedings and attendance of  
43 members at board meetings.

— Allows the county or counties to designate the corrections advisory board, for adult offenders, as the juvenile corrections advisory board.

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1 New Sec. 16. Juvenile corrections advisory boards established under  
2 the provisions of sections 8 through 23, and amendments thereto, shall  
3 actively participate in the formulation of the comprehensive plan for the  
4 development, implementation and operation of the juvenile correctional  
5 services described in section 8, and amendments thereto, in the county  
6 or group of cooperating counties, and shall make a formal recommen-  
7 dation to the board or boards of county commissioners at least annually  
8 concerning the comprehensive plan and its implementation and operation  
9 during the ensuing year.

10 New Sec. 17. Any comprehensive plan submitted pursuant to sec-  
11 tions 8 through 23, and amendments thereto, may include the purchase  
12 of selected juvenile correctional services by contract, including the tem-  
13 porary detention and confinement of juvenile offenders. The commis-  
14 sioner of juvenile justice shall annually determine the costs of the pur-  
15 chase of services under this section and deduct them from the grant  
16 payable to the county or, in the case of cooperating counties, the grants  
17 payable to the counties. In no case shall the charges for juvenile correc-  
18 tional services under such contract with the state exceed in cost the  
19 amount of the grant the county is eligible for or, in the case of cooperating  
20 counties, the total amount of the grants the counties are eligible to receive  
21 under sections 8 through 23, and amendments thereto.

22 New Sec. 18. (a) The comprehensive plan submitted to the commis-  
23 sioner of juvenile justice for approval shall include those items prescribed  
24 by rules and regulations adopted by the commissioner, which may require  
25 the inclusion of the following:

26 (1) A program for the detention, supervision and treatment of per-  
27 sons under pretrial detention or under commitment;

28 (2) delivery of other correctional services defined in section 8, and  
29 amendments thereto; and

30 (3) proposals for new facilities, programs and services, which pro-  
31 posals must include a statement of the need, purposes and objectives of  
32 the proposal and the administrative structure, staffing pattern, staff train-  
33 ing, financing, degree of community involvement and client participation  
34 which are planned for the proposal.

35 (b) In addition to the foregoing requirements made by this section,  
36 each county or group of counties shall be required to develop and imple-  
37 ment a procedure for the review by the juvenile corrections advisory  
38 board and the board or boards of county commissioners of new program  
39 applications and other matters proposed to be included under the com-  
40 prehensive plan and for the manner in which juvenile corrections advisory  
41 board action shall be taken thereon. A description of this procedure shall  
42 be made available to members of the public upon request.

43 New Sec. 19. (a) Except as provided in section 10, and amendments

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1 thereto, each grant under sections 8 through 23, and amendments  
 2 thereto, shall be expended by the county receiving it for juvenile com-  
 3 munity correctional services as described in section 8, and amendments  
 4 thereto, in addition to the amount required to be expended by such  
 5 county under this section. Each calendar year in which a county receives  
 6 grant payments under section 20, and amendments thereto, the county  
 7 shall make expenditures for correctional services as described in section  
 8 8, and amendments thereto, from any funds other than from grants under  
 9 sections 8 through 23, and amendments thereto, in an amount equal to  
 10 or exceeding the amount of base year juvenile corrections expenditures  
 11 as determined by the commissioner of juvenile justice.

12 (b) The commissioner of juvenile justice shall audit and determine  
 13 the amount of the expenditures for juvenile correctional services as de-  
 14 scribed in section 8, and amendments thereto, of each county applying  
 15 for a grant as provided in section 23, and amendments thereto.

16 (c) In any case where a county receiving a grant does not make ex-  
 17 penditures for juvenile correctional services from funds other than from  
 18 grants under sections 8 through 23, and amendments thereto, as required  
 19 by this section, the grant to such county for the next ensuing calendar  
 20 year shall be reduced by an amount equal to the amount by which such  
 21 county failed to make such required amount of expenditures.

22 (d) The commissioner of juvenile justice may provide, by rules and  
 23 regulations, procedures for the following, as determined by the commis-  
 24 sioner to further the purposes of sections 8 through 23, and amendments  
 25 thereto:

26 (1) The transfer, to one or more other counties, of any portion of a  
 27 county's annual grant which is not included in such county's program  
 28 budget for the current program year; and

29 (2) the transfer, to one or more other counties, of any portion of a  
 30 county's annual grant which remains unused at the end of such county's  
 31 program year and is not included in such county's program budget for  
 32 the ensuing program year.

33 (e) Except as otherwise provided pursuant to subsection (d), if a  
 34 county does not expend the full amount of the grant received for any one  
 35 year under the provisions of sections 8 through 23, and amendments  
 36 thereto, the county shall retain the unexpended amount of the grant for  
 37 expenditure for juvenile correctional services as described in section 8,  
 38 and amendments thereto, during any ensuing calendar year. The com-  
 39 missioner of juvenile justice shall reduce the grant for the ensuing cal-  
 40 endar year by an amount equal to the amount of the previous year's grant  
 41 which was not expended and was retained by the county, unless the com-  
 42 missioner finds that the amount so retained is needed for and will be  
 43 expended during the ensuing calendar year for expenditures under the

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1 applicable comprehensive plan.

2 New Sec. 20. (a) Upon compliance by a county or group of counties  
3 with the requirements for receipt of the grants authorized by sections 8  
4 through 23, and amendments thereto, and approval of the comprehensive  
5 plan by the commissioner of juvenile justice and the Kansas advisory  
6 group on juvenile justice and delinquency prevention, the commissioner  
7 shall determine the amount of the annual grant to each such county and,  
8 commencing on the next ensuing January 1 or July 1 after approval of the  
9 comprehensive plan, shall proceed to pay such grant in equal semiannual  
10 payments in accordance with and subject to sections 8 through 23, and  
11 amendments thereto, applicable rules and regulations, and the provisions  
12 of appropriation acts.

13 (b) Within 10 days after the end of each calendar quarter, each county  
14 receiving semiannual grant payments under sections 8 through 23, and  
15 amendments thereto, shall submit to the commissioner of juvenile justice  
16 certified statements detailing the amounts expended and costs incurred  
17 for the juvenile correctional services described in section 8, and amend-  
18 ments thereto. Upon receipt of such certified statements, the commis-  
19 sioner shall determine whether each such county is in compliance with  
20 the expenditure and operation standards prescribed under sections 8  
21 through 23, and amendments thereto, for such services and shall deter-  
22 mine the semiannual payment amount each such county is entitled to  
23 receive after making any adjustments for reductions or charges as re-  
24 quired by or in accordance with sections 8 through 23, and amendments  
25 thereto, and applicable rules and regulations.

26 (c) Semiannual grant payments for counties entitled thereto under  
27 sections 8 through 23, and amendments thereto, shall be made upon  
28 warrants of the director of accounts and reports issued pursuant to vouch-  
29 ers approved by the commissioner of juvenile justice or by a person or  
30 persons designated by the commissioner to the county treasurers of such  
31 counties.

32 New Sec. 21. (a) The commissioner of juvenile justice may contract  
33 for any juvenile correctional services described in section 8, and amend-  
34 ments thereto, from any county or group of cooperating counties which  
35 are receiving grants under sections 8 through 23, and amendments  
36 thereto.

37 (b) Any county may contract for any juvenile correctional services  
38 described in section 8, and amendments thereto, from any county or  
39 group of cooperating counties which are receiving grants under sections  
40 8 through 23, and amendments thereto, regardless of whether such  
41 county or group of counties is in the same judicial district as the county  
42 contracting for such services.

43 New Sec. 22. (a) Before July 1, 1999, each county in this state based



1 on the recommendation from the administrative judge of the judicial dis-  
2 trict in which each such county is located as provided in subsection (b),  
3 shall have:

4 (1) Established a juvenile corrections advisory board in accordance  
5 with section 14, and amendments thereto, and adopted a comprehensive  
6 plan for the development, implementation, operation and improvement  
7 of the juvenile correctional services described in section 8, and amend-  
8 ments thereto which has been approved by the commissioner of juvenile  
9 justice and which, in addition to such matters as are prescribed by rules  
10 and regulations of the commissioner, provides for centralized administra-  
11 tion and control of the juvenile correctional services under such plan;

12 (2) entered into an agreement with a group of cooperating counties  
13 to establish a regional or multi-county community juvenile correctional  
14 services program; established a juvenile corrections advisory board in ac-  
15 cordance with section 14, and amendments thereto; and adopted a com-  
16 prehensive plan for the development, implementation, operation and im-  
17 provement of the juvenile correctional services described in section 8,  
18 and amendments thereto, which has been approved by the commissioner  
19 of juvenile justice and which, in addition to such matters as are prescribed  
20 by rules and regulations of the commissioner, provides for centralized  
21 administration and control of the juvenile correctional services under such  
22 plan. Such group of counties may comply with the provisions of this sub-  
23 section through cooperative action pursuant to the provisions of K.S.A.  
24 12-2901 through 12-2907, and amendments thereto, to the extent that  
25 those statutes do not conflict with the provisions of sections 8 through  
26 23, and amendments thereto; or

27 (3) contracted for juvenile correctional services described in section  
28 8, and amendments thereto, from any county or group of cooperating  
29 counties, as provided in section 21, and amendments thereto, which are  
30 receiving grants under sections 8 through 23, and amendments thereto.

31 (b) Before September 15, 1998, the administrative judge in each ju-  
32 dicial district shall make a recommendation to the board of county com-  
33 missioners in each county in such judicial district which has not estab-  
34 lished a program to provide for the juvenile correctional services  
35 described in section 8, and amendments thereto, as to which option pro-  
36 vided in subsection (a) each such county in such judicial district should  
37 choose to comply with the provisions of sections 8 through 23, and  
38 amendments thereto.

39 New Sec. 23. (a) On or before each March 15, each county or group  
40 of counties applying to receive a grant shall submit a budget request to  
41 the commissioner. On or before each July 1, the commissioner of juvenile  
42 justice and the Kansas advisory group on juvenile justice and delinquency  
43 prevention shall determine annually the amount of the grant for the en-

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17

1 suing fiscal year for each county or group of counties which has qualified  
2 to receive grants as provided in this section.

3 (b) The determination of the grant of a county or group of counties  
4 by the commissioner shall consider, but not be limited to, the following  
5 criteria: Staffing levels justified by active cases under supervision; one-  
6 time expenditures such as renovation or construction costs, major equip-  
7 ment purchases or capital acquisitions; administrative costs; funded con-  
8 tracts for services; client numbers; caseload projections; travel costs  
9 outside the program area; and existing experience of similar programs.

Grant criteria established to be used by the commissioner.

10 New Sec. 24. On and after July 1, 1999: (a) For the purpose of sen-  
11 tencing juvenile offenders, the following placements may be applied by  
12 the judge in felony or misdemeanor cases for offenses committed on or  
13 after July 1, 1999. If used, the court shall establish a specific term of  
14 commitment.

New Section 24 is the placement matrix which will be in effect on and after July 1, 1999. The goal of the matrix is to keep nonviolent juvenile offenders in the community, while allowing the juvenile correctional facilities a longer period of time to work with youth placed in state custody.

15 (1) *Violent Offenders.* (A) The violent offender I is defined as an  
16 offender adjudicated as a juvenile offender if the offense, if committed  
17 by an adult, would be an off-grid felony. Offenders in this category may  
18 be committed to a juvenile correctional facility for a minimum term of  
19 60 months and up to a maximum term of the offender reaching the age  
20 of 22 years, six months. The aftercare term for this offender is set at a  
21 minimum term of six months and up to a maximum term of the offender  
22 reaching the age of 23 years.

23 (B) The violent offender II is defined as an offender adjudicated as  
24 a juvenile offender if the offense, if committed by an adult, would be a  
25 nondrug level 1, 2 or 3 person felony. Offenders in this category may be  
26 committed to a juvenile correctional facility for a minimum term of 24  
27 months and up to a maximum term of the offender reaching the age 22  
28 years, six months. The aftercare term for this offender is set at a minimum  
29 term of six months and up to a maximum term of the offender reaching  
30 the of age 23 years.

31 (2) *Serious Offenders.* (A) The serious offender I is defined as an  
32 offender adjudicated as a juvenile offender if the offense, if committed  
33 by an adult, would be a nondrug severity level 4, 5 or 6 person felony or  
34 a severity level 1 or 2 drug felony. Offenders in this category may be  
35 committed to a juvenile correctional facility for a minimum term of 18  
36 months and up to a maximum term of 36 months. The aftercare term for  
37 this offender is set at a minimum term of six months and up to a maximum  
38 term of 24 months.

39 (B) The serious offender II is defined as an offender adjudicated as  
40 a juvenile offender if the offense, if committed by an adult, would be a  
41 nondrug severity level 7, 8, 9 or 10 person felony with one prior felony  
42 adjudication. Offenders in this category may be committed to a juvenile  
43 correctional facility for a minimum term of nine months and up to a

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1 maximum term of 18 months. The aftercare term for this offender is set  
2 at a minimum term of six months and up to a maximum term of 24  
3 months.

4 (3) *Chronic Offenders*. (A) The chronic offender I, chronic felon is  
5 defined as an offender adjudicated as a juvenile offender if the offense,  
6 if committed by an adult, would be a:

7 (i) One present nonperson felony adjudication and two prior felony  
8 adjudications; or

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

11 Offenders in this category may be committed to a juvenile correctional  
12 facility for a minimum term of six months and up to a maximum term of  
13 18 months. The aftercare term for this offender is set at a minimum term  
14 of six months and up to a maximum term of 12 months.

15 (B) The chronic offender II, escalating felon is defined as an offender  
16 adjudicated as a juvenile offender if the offense, if committed by an adult,  
17 would be a:

18 (i) One present felony adjudication and two prior misdemeanor ad-  
19 judications;

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

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

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

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

30 (C) The chronic offender III, escalating misdemeanant is defined as  
31 an offender adjudicated as a juvenile offender if the offense, if committed  
32 by an adult, would be a:

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

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

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

40 (iv) one present severity level 4 drug felony adjudication and two  
41 prior severity level 4 felony adjudications and two out-of-home placement  
42 failures.

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

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

4 (4) *Conditional Release Violators*. Conditional release violators may  
5 be committed for a minimum term of three months and up to a maximum  
6 term of six months. The aftercare term for this offender is set at a mini-  
7 mum term of two months and up to a maximum term of six months, or  
8 the maximum term of the original aftercare term, whichever is longer.

9 (b) As used in this section, "placement failure" means a juvenile of-  
10 fender has been placed out-of-home on probation in an accredited com-  
11 munity placement in a juvenile offender case and the offender has sig-  
12 nificantly violated the terms of probation in that case.

13 (c) All appropriate community placement options shall have been ex-  
14 hausted before such juvenile offender shall be placed in a juvenile cor-  
15 rectional facility. A court finding shall be made acknowledging that ap-  
16 propriate community placement options have been pursued and no such  
17 option is appropriate.

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

22 New Sec. 25. On and after July 1, 1999: (a) For purposes of deter-  
23 mining release of a juvenile offender for an offense committed on or after  
24 July 1, 1999, a system shall be developed whereby good behavior by ju-  
25 venile offenders is the expected norm and negative behavior will be pun-  
26 ished.

27 (b) The commissioner of juvenile justice is hereby authorized to  
28 adopt rules and regulations to carry out the provisions of this section  
29 regarding good time calculations. Such rules and regulations shall provide  
30 circumstances upon which a juvenile offender may earn good time credits  
31 through participation in programs which may include, but not be limited  
32 to, education programs, work participation, treatment programs, voca-  
33 tional programs, activities and behavior modification. Such good time  
34 credits may also include the juvenile offender's willingness to examine  
35 and confront the past behavior patterns that resulted in the commission  
36 of the juvenile's offense.

37 (c) If the placement sentence established in section 24, and amend-  
38 ments thereto, is used by the court, the juvenile offender shall serve no  
39 less than the minimum term authorized under the specific category of  
40 such placement sentence.

41 New Sec. 26. On and after July 1, 1999:

42 (a) The commissioner of juvenile justice may petition the court to  
43 modify the placement sentence established in section 24, and amend-

← New Section 25 provides that the commissioner is authorized to award good time credits subject to the mandatory minimum sentences. This language is patterned after K.S.A. 21-4722, adult good time credits, department of corrections.

← New Section 26 allows the commissioner to petition the court to modify the placement sentence if certain criteria has been met.

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1 ments thereto, after a juvenile offender has served the minimum term  
2 indicated by the placement sentence, based upon program completion,  
3 positive behavior modification and progress made.

4 (b) If the court grants the modification, the sentence shall be short-  
5 ened, and the term of aftercare that was pronounced at sentencing shall  
6 commence.

7 (c) If the court does not grant the modification, the juvenile's attorney  
8 may petition for modification and a formal hearing shall be granted.

9 (d) The aftercare supervisor may petition the court for early dis-  
10 charge, extension or revocation from conditional release or aftercare.

11 New Sec. 27. The name of the youth center at Larned is hereby  
12 changed to the Larned juvenile correctional facility. On and after July 1,  
13 1997, any reference to the youth center at Larned, or words of like effect,  
14 in any statutes, contract or other document shall be deemed to apply to  
15 the Larned juvenile correctional facility. The Larned juvenile correctional  
16 facility shall be under the supervision and control of the commissioner of  
17 juvenile justice in accordance with K.S.A. 1996 Supp. 76-3203, and  
18 amendments thereto. All juvenile offenders placed in the Larned juvenile  
19 correctional facility shall be subject to the laws applicable to any other  
20 juvenile correctional facility, as defined by K.S.A. 38-1602, and amend-  
21 ments thereto.

New Section 27 changes the name of the Youth Center at Larned to the Larned Correctional Facility.

22 New Sec. 28. The corporation for change established by K.S.A. 38-  
23 1803 is hereby abolished.

24 New Sec. 29. On and after July 1, 1997:

25 (a) Except as otherwise provided by this act, whenever the corpora-  
26 tion for change, or words of like effect, is referred to or designated by a  
27 statute, contract or other document, such reference or designation shall  
28 be deemed to apply to the Kansas advisory group on juvenile justice and  
29 delinquency prevention established by K.S.A. 1996 Supp. 75-7007, and  
30 amendments thereto.

New Sections 28 through 32 abolish the Corporation for Change, established in K.S.A. 38-1801 et seq.; and transfers limited duties to the Kansas Advisory Group on Juvenile Justice and Delinquency Prevention established by K.S.A. 75-7007 (Section 82, page 97, line 42).

31 (b) Except as otherwise provided by this act, whenever the executive  
32 director or the chairperson of the board of directors of the corporation  
33 for change, or words of like effect, is referred to or designated by a statute,  
34 contract or other document, such reference or designation shall be  
35 deemed to apply to the Kansas advisory group on juvenile justice and  
36 delinquency prevention established by K.S.A. 1996 Supp. 75-7007, and  
37 amendments thereto.

38 (c) All orders and directives of the corporation for change or of the  
39 executive director or the chairperson of the board of directors of the  
40 corporation for change in existence on the effective date of this act shall  
41 continue to be effective and shall be deemed to be orders and directives  
42 of the Kansas advisory group on juvenile justice and delinquency preven-  
43 tion until revised, amended or nullified pursuant to law.

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1 (d) On the effective date of this act, the Kansas advisory group on  
2 juvenile justice and delinquency prevention shall succeed to whatever  
3 right, title or interest the corporation for change has acquired in any real  
4 property in this state, and the advisory group shall hold the same for and  
5 in the name of the state of Kansas. On and after the effective date of this  
6 act, whenever any statute, contract, deed or other document concerns  
7 the power or authority of the corporation for change or of the executive  
8 director or the chairperson of the board of directors of the corporation  
9 for change to acquire, hold or dispose of real property or any interest  
10 therein, the Kansas advisory group on juvenile justice and delinquency  
11 prevention shall succeed to such power or authority.

12 New Sec. 30. On and after July 1, 1997:

13 (a) When any conflict arises as to the disposition of any power, func-  
14 tion or duty or the unexpended balance of any appropriation as a result  
15 of any abolition, transfer, attachment or change made by or under au-  
16 thority of this act, such conflict shall be resolved by the governor, whose  
17 decision shall be final.

18 (b) The Kansas advisory group on juvenile justice and delinquency  
19 prevention shall succeed to all property and records which were used for  
20 or pertain to the performance of the powers, duties and functions trans-  
21 ferred to the Kansas advisory group on juvenile justice and delinquency  
22 prevention. Any conflict as to the proper disposition of property or re-  
23 cords arising under this section, and resulting from the transfer or at-  
24 tachment of any state agency, or all or part of the powers, duties and  
25 functions thereof, shall be determined by the governor, whose decision  
26 shall be final.

27 New Sec. 31. On and after July 1, 1997:

28 (a) The Kansas advisory group on juvenile justice and delinquency  
29 prevention shall have the legal custody of all records, memoranda, writ-  
30 ings, entries, prints, representations or combinations thereof of any act,  
31 transaction, occurrence or event of the corporation for change and any  
32 agency or office transferred thereto under this act.

33 (b) No suit, action or other proceeding, judicial or administrative,  
34 lawfully commenced, or which could have been commenced, by or against  
35 any state agency mentioned in this act, or by or against any officer of the  
36 state in such officer's official capacity or in relation to the discharge of  
37 such officer's official duties, shall abate by reason of the governmental  
38 reorganization effected under the provisions of this act. The court may  
39 allow any such suit, action or other proceeding to be maintained by or  
40 against the successor of any such state agency or any officer affected.

41 (c) No criminal action commenced or which could have been com-  
42 menced by the state shall abate by the taking effect of this act.

43 New Sec. 32. (a) On and after July 1, 1997, the balance of all funds

1 appropriated and reappropriated to the corporation for change is hereby  
2 transferred to the Kansas advisory group on juvenile justice and delin-  
3 quency prevention and shall be used only for the purpose for which the  
4 appropriation was originally made.

5 (b) On and after July 1, 1997, the balance of all funds received by the  
6 corporation for change and maintained in interest-bearing accounts in  
7 Kansas banks or Kansas savings and loan associations pursuant to K.S.A.  
8 38-1809, prior to its repeal, shall be transferred to the state treasury and  
9 credited to the family and children investment fund.

Monies outside of the state treasury of the Corporation for Change shall be transferred to the state treasury and credited to the family and children investment fund.

10 Section 33. K.S.A. 20-1a11 is hereby amended to read as follows: 20-  
11 1a11. (a) There is hereby created in the state treasury a judicial branch  
12 education fund.

Technical amendment needed when Corporation for Change abolished.

13 (b) All money credited to the fund shall be used for the purpose of  
14 educating and training judicial branch officers and employees; for admin-  
15 istering the training, testing and education of municipal judges as pro-  
16 vided in K.S.A. 12-4114, and amendments thereto; for educating and  
17 training municipal judges and municipal court support staff; and for the  
18 planning and implementation of a family court system as provided by law;  
19 ~~except that expenditures for this purpose for the fiscal year ending June~~  
20 ~~30, 1993, shall not exceed \$30,000 through the corporation for change,~~  
21 ~~and on October 1, 1992, or as soon thereafter as moneys are available~~  
22 ~~therefor, and during fiscal year 1993, the director of accounts and reports~~  
23 ~~shall transfer \$30,000 from the judicial branch education fund to the~~  
24 ~~family and children investment fund of the corporation for change and~~  
25 ~~all such moneys shall be used for such purpose.~~ Expenditures from the  
26 judicial branch education fund shall be made in accordance with appro-  
27 priation acts upon warrants of the director of accounts and reports issued  
28 pursuant to vouchers approved by the chief justice of the supreme court  
29 or by a person or persons designated by the chief justice.

30 (c) The chief justice may apply for, receive and accept money from  
31 any source for the purposes for which money in the judicial branch ed-  
32 ucation fund may be expended. Upon receiving any such money, the chief  
33 justice shall remit the entire amount at least monthly to the state treasurer  
34 who shall deposit such money in the state treasury and credit such money  
35 to the judicial branch education fund.

36 (d) Upon the effective date of this act, the director of accounts and  
37 reports is directed to transfer all moneys in the municipal judge training  
38 fund to the judicial branch education fund. Upon the effective date of  
39 this act, all liabilities of the municipal judge training fund existing prior  
40 to such date are hereby imposed on the judicial branch education fund.  
41 Whenever the municipal judge training fund, or words of like effect, is  
42 referred to or designated by any statute, contract, or other document,  
43 such reference or designation shall be deemed to apply to the judicial

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1 branch education fund. The municipal judge training fund is hereby abol-  
2 ished.

3 Sec. 34. K.S.A. 1996 Supp. 21-2511 is hereby amended to read as  
4 follows: 21-2511. (a) Any person convicted as an adult or adjudicated as  
5 a juvenile offender because of the commission of an unlawful sexual act  
6 as defined in subsection (4) of K.S.A. 21-3501, and amendments thereto,  
7 or convicted as an adult or adjudicated as a juvenile offender because of  
8 the commission of a violation of K.S.A. 21-3401, 21-3402, 21-3510, 21-  
9 3511, 21-3516, 21-3602, 21-3603 or 21-3609, and amendments thereto,  
10 including an attempt, as defined in K.S.A. 21-3301, and amendments  
11 thereto, conspiracy, as defined in K.S.A. 21-3302, and amendments  
12 thereto, or criminal solicitation, as defined in K.S.A. 21-3303, and amend-  
13 ments thereto, of any such offenses provided in this subsection regardless  
14 of the sentence imposed, shall be required to submit specimens of blood  
15 and saliva to the Kansas bureau of investigation in accordance with the  
16 provisions of this act, if such person is:

17 (1) Convicted as an adult or adjudicated as a juvenile offender be-  
18 cause of the commission of a crime specified in subsection (a) on or after  
19 the effective date of this act;

20 (2) ordered institutionalized as a result of being convicted as an adult  
21 or adjudicated as a juvenile offender because of the commission of a crime  
22 specified in subsection (a) on or after the effective date of this act; or

23 (3) convicted as an adult or adjudicated as a juvenile offender because  
24 of the commission of a crime specified in this subsection before the ef-  
25 fective date of this act and is presently confined as a result of such con-  
26 viction or adjudication in any state correctional facility or county jail or is  
27 presently serving ~~an authorized disposition~~ a sentence under K.S.A. 21-  
28 4603, 22-3717 or 38-1663, and amendments thereto.

29 (b) Notwithstanding any other provision of law, the Kansas bureau of  
30 investigation is authorized to obtain fingerprints and other identifiers for  
31 all persons, whether juveniles or adults, covered by this act.

32 (c) Any person required by paragraphs (a)(1) and (a)(2) to provide  
33 specimens of blood and saliva shall be ordered by the court to have spec-  
34 imens of blood and saliva collected within 10 days after sentencing or  
35 adjudication:

36 (1) If placed directly on probation, that person must provide speci-  
37 mens of blood and saliva, at a collection site designated by the Kansas  
38 bureau of investigation. Failure to cooperate with the collection of the  
39 specimens and any deliberate act by that person intended to impede,  
40 delay or stop the collection of the specimens shall be punishable as con-  
41 tempt of court and constitute grounds to revoke probation;

42 (2) if sentenced to the secretary of corrections, the specimens of  
43 blood and saliva will be obtained immediately upon arrival at the Topeka

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1 correctional facility; or

2 (3) if a juvenile offender is placed in the custody of the ~~secretary of~~  
3 ~~social and rehabilitation services commissioner of juvenile justice~~, in a  
4 youth residential facility or in a ~~state youth center~~ *juvenile correctional*  
5 *facility*, the specimens of blood and saliva will be obtained immediately  
6 upon arrival.

7 (d) Any person required by paragraph (a)(3) to provide specimens of  
8 blood and saliva shall be required to provide such samples prior to final  
9 discharge, ~~parole~~, or *conditional* release at a collection site designated by  
10 the Kansas bureau of investigation.

11 (e) The Kansas bureau of investigation shall provide all specimen vi-  
12 als, mailing tubes, labels and instructions necessary for the collection of  
13 blood and saliva samples. The collection of samples shall be performed  
14 in a medically approved manner. No person authorized by this section to  
15 withdraw blood and collect saliva, and no person assisting in the collection  
16 of these samples shall be liable in any civil or criminal action when the  
17 act is performed in a reasonable manner according to generally accepted  
18 medical practices. The withdrawal of blood for purposes of this act may  
19 be performed only by: (1) A person licensed to practice medicine and  
20 surgery or a person acting under the supervision of any such licensed  
21 person; (2) a registered nurse or a licensed practical nurse; or (3) any  
22 qualified medical technician including, but not limited to, an emergency  
23 medical technician-intermediate or mobile intensive care technician, as  
24 those terms are defined in K.S.A. 65-6112, and amendments thereto, or  
25 a phlebotomist. The samples shall thereafter be forwarded to the Kansas  
26 bureau of investigation for analysis and categorizing into genetic marker  
27 groupings.

28 (f) The genetic marker groupings shall be maintained by the Kansas  
29 bureau of investigation. The Kansas bureau of investigation shall establish,  
30 implement and maintain a statewide automated personal identification  
31 system capable of, but not limited to, classifying, matching and storing  
32 analysis of DNA (deoxyribonucleic acid) and other biological molecules.  
33 The genetic marker grouping analysis information and identification sys-  
34 tem as established by this act shall be compatible with the procedures  
35 specified by the federal bureau of investigation's combined DNA index  
36 system (CODIS). The Kansas bureau of investigation may participate in  
37 the CODIS program by sharing data and utilizing compatible test pro-  
38 cedures, laboratory equipment, supplies and computer software.

39 (g) The genetic marker grouping analysis information obtained pur-  
40 suant to this act shall be confidential and shall be released only to law  
41 enforcement officers of the United States, of other states or territories,  
42 of the insular possessions of the United States, or foreign countries duly  
43 authorized to receive the same, to all law enforcement officers of the state

1 of Kansas and to all prosecutor's agencies.

2 (h) The Kansas bureau of investigation shall be the state central re-  
3 pository for all genetic marker grouping analysis information obtained  
4 pursuant to this act. The Kansas bureau of investigation may promulgate  
5 rules and regulations for the form and manner of the collection of blood  
6 and saliva samples and other procedures for the operation of this act. The  
7 provisions of the Kansas administrative procedure act shall apply to all  
8 actions taken under the rules and regulations so promulgated.

9 Sec. 35. K.S.A. 1996 Supp. 21-3413 is hereby amended to read as  
10 follows: 21-3413. Battery against a law enforcement officer is a battery,  
11 as defined in K.S.A. 21-3412 and amendments thereto:

12 (a) (1) Committed against a uniformed or properly identified state,  
13 county or city law enforcement officer other than a state correctional  
14 officer or employee, a city or county correctional officer or employee, a  
15 ~~state youth center~~ *juvenile correctional facility* officer or employee or a  
16 juvenile detention facility officer or employee, while such officer is en-  
17 gaged in the performance of such officer's duty;

18 (2) committed against a state correctional officer or employee by a  
19 person in custody of the secretary of corrections, while such officer or  
20 employee is engaged in the performance of such officer's or employee's  
21 duty;

22 (3) committed against a ~~state youth center~~ *juvenile correctional fa-*  
23 *ility* officer or employee by a person confined in such ~~youth center ju-~~  
24 *venile correctional facility*, while such officer or employee is engaged in  
25 the performance of such officer's or employee's duty;

26 (4) committed against a juvenile detention facility officer or employee  
27 by a person confined in such juvenile detention facility, while such officer  
28 or employee is engaged in the performance of such officer's or employee's  
29 duty; or

30 (5) committed against a city or county correctional officer or em-  
31 ployee by a person confined in a city holding facility or county jail facility,  
32 while such officer or employee is engaged in the performance of such  
33 officer's or employee's duty.

34 (b) Battery against a law enforcement officer as defined in subsection  
35 (a)(1) is a class A person misdemeanor. Battery against a law enforcement  
36 officer as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a severity  
37 level 7 6, person felony.

38 (c) As used in this section:

39 (1) "Correctional institution" means any institution or facility under  
40 the supervision and control of the secretary of corrections.

41 (2) "State correctional officer or employee" means any officer or em-  
42 ployee of the Kansas department of corrections or any independent con-  
43 tractor, or any employee of such contractor, working at a correctional

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1 institution.

2 (3) "~~State youth center~~ *Juvenile correctional facility* officer or em-  
3 ployee" means any officer or employee of the ~~Kansas department of social~~  
4 ~~and rehabilitation services~~ *juvenile justice authority* or any independent  
5 contractor, or any employee of such contractor, working at a ~~state youth~~  
6 ~~center~~ *juvenile correctional facility*, as defined in K.S.A. 38-1602 and  
7 amendments thereto.

8 (4) "Juvenile detention facility officer or employee" means any officer  
9 or employee of a juvenile detention facility as defined in K.S.A. 38-1602  
10 and amendments thereto.

11 (5) "City or county correctional officer or employee" means any cor-  
12 rectional officer or employee of the city or county or any independent  
13 contractor, or any employee of such contractor, working at a city holding  
14 facility or county jail facility.

15 Sec. 36. K.S.A. 21-3612, as amended by section 25 of chapter 229 of  
16 the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
17 21-3612. (a) Contributing to a child's misconduct or deprivation is:

18 (1) Causing or encouraging a child under 18 years of age to become  
19 or remain a child in need of care as defined by the Kansas code for care  
20 of children;

21 (2) causing or encouraging a child under 18 years of age to commit  
22 a traffic infraction or an act which, if committed by an adult, would be a  
23 misdemeanor or to violate the provisions of K.S.A. 41-727 or subsection  
24 (j) of K.S.A. 74-8810 and amendments thereto;

25 (3) failure to reveal, upon inquiry by a uniformed or properly iden-  
26 tified law enforcement officer engaged in the performance of such offi-  
27 cer's duty, any information one has regarding a runaway, with intent to  
28 aid the runaway in avoiding detection or apprehension;

29 (4) sheltering or concealing a runaway with intent to aid the runaway  
30 in avoiding detection or apprehension by law enforcement officers;

31 (5) causing or encouraging a child under 18 years of age to commit  
32 an act which, if committed by an adult, would be a felony; or

33 (6) causing or encouraging a child to violate the terms or conditions  
34 of the child's probation or *conditional release* pursuant to subsection  
35 (a)(1) of K.S.A. 38-1663, and amendments thereto.

36 Contributing to a child's misconduct or deprivation as described in  
37 subsection (a)(1), (2), (3) or (6) is a class A nonperson misdemeanor.  
38 Contributing to a child's misconduct or deprivation as described in sub-  
39 section (a)(4) is a severity level 8, person felony. Contributing to a child's  
40 misconduct or deprivation as described in subsection (a)(5) is a severity  
41 level 7, person felony.

42 (b) A person may be found guilty of contributing to a child's miscon-  
43 duct or deprivation even though no prosecution of the child whose mis-

Adding "causing/encouraging a child to violate the terms of conditional release"  
as an unlawful act pursuant to contributing to a child's misconduct or  
deprivation.

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1 conduct or deprivation the defendant caused or encouraged has been  
2 commenced pursuant to the Kansas code for care of children, Kansas  
3 juvenile justice code or Kansas criminal code.

4 (c) As used in this section, "runaway" means a child under 18 years  
5 of age who is willfully and voluntarily absent from:

6 (1) The child's home without the consent of the child's parent or  
7 other custodian; or

8 (2) a court ordered or designated placement, or a placement pursuant  
9 to court order, if the absence is without the consent of the person with  
10 whom the child is placed or, if the child is placed in a facility, without  
11 the consent of the person in charge of such facility or such person's des-  
12 ignee.

13 (d) This section shall be part of and supplemental to the Kansas crim-  
14 inal code.

15 Sec. 37. K.S.A. 22-4701, as amended by section 27 of chapter 229 of  
16 the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
17 22-4701. As used in this act, unless the context clearly requires otherwise:

18 (a) "Central repository" means the criminal justice information sys-  
19 tem central repository created by this act and the juvenile offender in-  
20 formation system created pursuant to K.S.A. 38-1618, and amendments  
21 thereto.

22 (b) "Criminal history record information" means data initiated or col-  
23 lected by a criminal justice agency on a person pertaining to a reportable  
24 event. The term does not include:

25 (1) Data contained in intelligence or investigatory files or police work-  
26 product records used solely for police investigation purposes;

27 ~~(2) juvenile offender information other than data pertaining to a per-  
28 son following waiver of jurisdiction pursuant to the Kansas juvenile code  
29 or an authorization for prosecution as an adult pursuant to the Kansas  
30 juvenile justice code;~~

31 ~~(2)~~ (2) wanted posters, police blotter entries, court records of public  
32 judicial proceedings or published court opinions;

33 ~~(4)~~ (3) data pertaining to violations of the traffic laws of the state or  
34 any other traffic law or ordinance, other than vehicular homicide; or

35 ~~(5)~~ (4) presentence investigation and other reports prepared for use  
36 by a court in the exercise of criminal jurisdiction or by the governor in  
37 the exercise of the power of pardon, reprieve or commutation.

38 (c) "Criminal justice agency" means any government agency or sub-  
39 division of any such agency which is authorized by law to exercise the  
40 power of arrest, detention, prosecution, adjudication, correctional super-  
41 vision, rehabilitation or release of persons suspected, charged or con-  
42 victed of a crime and which allocates a substantial portion of its annual  
43 budget to any of these functions. The term includes, but is not limited

At least some juvenile offender information is considered criminal history information for adult sentencing.

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1 to, the following agencies, when exercising jurisdiction over criminal mat-  
2 ters or criminal history record information:

3 (1) State, county, municipal and railroad police departments, sheriffs'  
4 offices and countywide law enforcement agencies, correctional facilities,  
5 jails and detention centers;

6 (2) the offices of the attorney general, county or district attorneys and  
7 any other office in which are located persons authorized by law to pros-  
8 ecute persons accused of criminal offenses;

9 (3) the district courts, the court of appeals, the supreme court, the  
10 municipal courts and the offices of the clerks of these courts;

11 (4) the Kansas sentencing commission;

12 (5) the Kansas parole board; and

13 (6) the juvenile justice authority.

14 (d) "Criminal justice information system" means the equipment (in-  
15 cluding computer hardware and software), facilities, procedures, agree-  
16 ments and personnel used in the collection, processing, preservation and  
17 dissemination of criminal history record information.

18 (e) "Director" means the director of the Kansas bureau of investi-  
19 gation.

20 (f) "Disseminate" means to transmit criminal history record infor-  
21 mation in any oral or written form. The term does not include:

22 (1) The transmittal of such information within a criminal justice  
23 agency;

24 (2) the reporting of such information as required by this act; or

25 (3) the transmittal of such information between criminal justice agen-  
26 cies in order to permit the initiation of subsequent criminal justice pro-  
27 ceedings against a person relating to the same offense.

28 (g) "Juvenile offender information" has the meaning provided by  
29 K.S.A. 38-1617, and amendments thereto.

30 (h) (g) "Reportable event" means an event specified or provided for  
31 in K.S.A. 22-4705, and amendments thereto.

32 Sec. 38. K.S.A. 1996 Supp. 28-170 is hereby amended to read as  
33 follows: 28-170. (a) The docket fee prescribed by K.S.A. 60-2001 and  
34 amendments thereto shall be the only costs assessed for services of the  
35 clerk of the district court and the sheriff in any case filed under chapter  
36 60 of the Kansas Statutes Annotated. For services in other matters in  
37 which no other fee is prescribed by statute, the following fees shall be  
38 charged and collected by the clerk. Only one fee shall be charged for each  
39 bond, lien or judgment:

- 40 1. For filing, entering and releasing a bond, mechanic's lien, notice of intent  
41 to perform, personal property tax judgment or any judgment on which  
42 execution process cannot be issued ..... \$5  
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1 2. For filing, entering and releasing a judgment of a court of this state on  
2 which execution or other process can be issued ..... 15

3 3. For a certificate, or for copying or certifying any paper or writ, such fee  
4 as shall be prescribed by the district court.

5 (b) The fees for entries, certificates and other papers required in  
6 naturalization cases shall be those prescribed by the federal government  
7 and, when collected, shall be disbursed as prescribed by the federal gov-  
8 ernment. The clerk of the court shall remit to the state treasurer at least  
9 monthly all moneys received from fees prescribed by subsection (a) or  
10 (b) or received for any services performed which may be required by law.  
11 The state treasurer shall deposit the remittance in the state treasury and  
12 credit the entire amount to the state general fund.

13 (c) In actions pursuant to the Kansas code for care of children (K.S.A.  
14 38-1501 *et seq.* and amendments thereto), the Kansas juvenile offenders  
15 justice code (K.S.A. 38-1601 *et seq.* and amendments thereto), the act for  
16 treatment of alcoholism (K.S.A. 65-4001 *et seq.* and amendments  
17 thereto), the act for treatment of drug abuse (K.S.A. 65-5201 *et seq.* and  
18 amendments thereto) or the care and treatment act for mentally ill per-  
19 sons (K.S.A. 1996 Supp. 59-2945 *et seq.* and amendments thereto), the  
20 clerk shall charge an additional fee of \$1 which shall be deducted from  
21 the docket fee and credited to the prosecuting attorneys' training fund as  
22 provided in K.S.A. 28-170a and amendments thereto.

23 (d) In actions pursuant to the Kansas code for care of children (K.S.A.  
24 38-1501 *et seq.* and amendments thereto), the Kansas juvenile offenders  
25 justice code (K.S.A. 38-1601 *et seq.* and amendments thereto), the act for  
26 treatment of alcoholism (K.S.A. 65-4001 *et seq.* and amendments  
27 thereto), the act for treatment of drug abuse (K.S.A. 65-5201 *et seq.* and  
28 amendments thereto) or the care and treatment act for mentally ill per-  
29 sons (K.S.A. 1996 Supp. 59-2945 *et seq.* and amendments thereto), the  
30 clerk shall charge an additional fee of \$.50 which shall be deducted from  
31 the docket fee and credited to the indigents' defense services fund as  
32 provided in K.S.A. 28-172b and amendments thereto.

33 Sec. 39. K.S.A. 1996 Supp. 38-1507 is hereby amended to read as  
34 follows: 38-1507. (a) In order to protect the privacy of children who are  
35 the subject of a child in need of care record or report, all records and  
36 reports concerning children in need of care, including the juvenile intake  
37 and assessment report, received by the department of social and reha-  
38 bilitation services, a law enforcement agency or any juvenile intake and  
39 assessment worker shall be kept confidential except: (1) To those persons  
40 or entities with a need for information that is directly related to achieving  
41 the purposes of this code, or (2) upon an order of a court of competent  
42 jurisdiction or an administrative hearing officer of the state upon a de-  
43 termination by the court or hearing officer issuing the order that disclo-

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Requested by SRS, child in need of care. Records and reports concerning CNIC's or alleged CNIC's may be needed in domestic relations proceedings, criminal proceedings and other civil proceedings. As currently drafted, courts are not authorized to access these records. This amendment would allow such access when ordered by the court.

1 *sure of the reports and records is in the best interests of the child or serves*  
2 *some other legitimate state purpose. Such access shall be limited to in*  
3 *camera inspection unless the court or hearing officer otherwise issues an*  
4 *order specifying the terms of disclosure.*

5 (b) When a report is received by the department of social and reha-  
6 bilitation services, a law enforcement agency or any juvenile intake and  
7 assessment worker which indicates a child may be in need of care, the  
8 following persons and entities shall have a free exchange of information  
9 between and among them:

10 (1) The department of social and rehabilitation services;

11 (2) the commissioner of juvenile justice;

12 (3) the law enforcement agency receiving such report;

13 (4) members of a court appointed multidisciplinary team;

14 (5) an entity mandated by federal law or an agency of any state au-  
15 thorized to receive and investigate reports of a child known or suspected  
16 to be in need of care;

17 (6) a military enclave or Indian tribal organization authorized to re-  
18 ceive and investigate reports of a child known or suspected to be in need  
19 of care;

20 (7) a county or district attorney;

21 (8) a court services officer who has taken a child into custody pursuant  
22 to K.S.A. 38-1527, and amendments thereto;

23 (9) a guardian ad litem appointed for a child alleged to be in need of  
24 care;

25 (10) an intake and assessment worker; and

26 (11) any community corrections program which has the child under  
27 court ordered supervision.

28 (c) The following persons or entities shall have access to information,  
29 records or reports received by the department of social and rehabilitation  
30 services, a law enforcement agency or any juvenile intake and assessment  
31 worker. Access shall be limited to information necessary to carry out their  
32 lawful responsibilities or to diagnose, treat, care for or protect a child  
33 alleged to be in need of care.

34 (1) A child named in the report or records.

35 (2) A parent or other person responsible for the welfare of a child,  
36 or such person's legal representative.

37 (3) A court-appointed special advocate for a child, a citizen review  
38 board or other advocate which reports to the court.

39 (4) A person licensed to practice the healing arts or mental health  
40 profession in order to diagnose, care for, treat or supervise: (A) A child  
41 whom such service provider reasonably suspects may be in need of care;  
42 (B) a member of the child's family; or (C) a person who allegedly abused  
43 or neglected the child.

1 (5) A person or entity licensed or registered by the secretary of health  
2 and environment or approved by the secretary of social and rehabilitation  
3 services to care for, treat or supervise a child in need of care. In order to  
4 assist a child placed for care by the secretary of social and rehabilitation  
5 services in a foster home or child care facility, the secretary shall provide  
6 relevant information to the foster parents or child care facility prior to  
7 placement and as such information becomes available to the secretary.

8 ~~(6) Parties to a court proceeding in which the information in the~~  
9 ~~records is legally relevant and necessary for determination of an issue~~  
10 ~~before such court, provided that prior to such disclosure the judge has~~  
11 ~~reviewed the records in camera, has determined the relevancy and ne-~~  
12 ~~cessity of such disclosure and has limited disclosure to such legally rele-~~  
13 ~~vant information under an appropriate order.~~

14 ~~(7) A coroner or medical examiner when such person is determining~~  
15 ~~the cause of death of a child.~~

16 ~~(8) (7) The state child death review board established under K.S.A.~~  
17 ~~22a-243, and amendments thereto.~~

18 ~~(9) (8) A prospective adoptive parent prior to placing a child in their~~  
19 ~~care.~~

20 ~~(10) (9) The department of health and environment for the purpose~~  
21 ~~of carrying out responsibilities relating to licensure or registration of child~~  
22 ~~care providers as required by chapter 65 of article 5 of the Kansas Statutes~~  
23 ~~Annotated, and amendments thereto.~~

24 ~~(11) (10) The state protection and advocacy agency as provided by~~  
25 ~~subsection (a)(10) of K.S.A. 65-5603 or subsection (a)(2)(A) and (B) of~~  
26 ~~K.S.A. 74-5515, and amendments thereto.~~

27 ~~(12) (11) Any educational institution to the extent allowed pursuant~~  
28 ~~to law or pursuant to court order.~~

29 ~~(13) Any other person when authorized by a court order, subject to~~  
30 ~~any conditions imposed by the order.~~

31 (d) Information from a record or report of a child in need of care  
32 shall be available to members of the standing house or senate committee  
33 on judiciary, house committee on appropriations, senate committee on  
34 ways and means, legislative post audit committee and joint committee on  
35 children and families, carrying out such member's or committee's official  
36 functions in accordance with K.S.A. 75-4319 and amendments thereto,  
37 in a closed or executive meeting. Except in limited conditions established  
38 by  $\frac{2}{3}$  of the members of such committee, records and reports received  
39 by the committee shall not be further disclosed. Unauthorized disclosure  
40 may subject such member to discipline or censure from the house of  
41 representatives or senate.

42 (e) Nothing in this section shall be interpreted to prohibit the sec-  
43 retary of social and rehabilitation services from summarizing the outcome



1 of department actions regarding a child alleged to be a child in need of  
2 care to a person having made such report.

3 (f) Disclosure of information from reports or records of a child in  
4 need of care to the public shall be limited to ~~confirmation~~ *confirmation*  
5 of factual details with respect to how the case was handled that do not  
6 violate the privacy of the child, if living, or the child's siblings, parents or  
7 guardians. Further, confidential information may be released to the pub-  
8 lic only with the express written permission of the individuals involved or  
9 their representatives or upon order of the court having jurisdiction upon  
10 a finding by the court that public disclosure of information in the records  
11 or reports is necessary for the resolution of an issue before the court.

12 (g) *Nothing in this section shall be interpreted to prohibit a court of*  
13 *competent jurisdiction from making an order disclosing the findings or*  
14 *information pursuant to a report of alleged or suspected child abuse or*  
15 *neglect which has resulted in a child fatality or near fatality if the court*  
16 *determines such disclosure is necessary to a legitimate state purpose. In*  
17 *making such order, the court shall give due consideration to the privacy*  
18 *of the child, if, living, or the child's siblings, parents or guardians.*

19 ~~(g)~~ (h) Information authorized to be disclosed in subsections (c)  
20 through (f) shall not contain information which identifies a reporter of a  
21 child in need of care.

22 ~~(h)~~ (i) Records or reports authorized to be disclosed in this section  
23 shall not be further disclosed.

24 ~~(i)~~ (j) Anyone who participates in providing or receiving information  
25 without malice under the provisions of this section shall have immunity  
26 from any civil liability that might otherwise be incurred or imposed. Any  
27 such participant shall have the same immunity with respect to participa-  
28 tion in any judicial proceedings resulting from providing or receiving in-  
29 formation.

30 ~~(j)~~ (k) No individual, association, partnership, corporation or other  
31 entity shall willfully or knowingly disclose, permit or encourage disclosure  
32 of the contents of records or reports concerning a child in need of care  
33 received by the department of social and rehabilitation services, a law  
34 enforcement agency or a juvenile intake and assessment worker except  
35 as provided by this code. Violation of this subsection is a class B misde-  
36 meanor.

37 Sec. 40. K.S.A. 1996 Supp. 38-1508 is hereby amended to read as  
38 follows: 38-1508. All records and reports concerning child abuse or ne-  
39 glect received by law enforcement agencies shall be kept separate from  
40 all other records and shall not be disclosed to anyone except:

41 (a) The judge and members of the court staff designated by the judge  
42 of the court having the child before it in any proceedings;

43 (b) the guardian *ad litem* and the parties to the proceedings and their

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1 attorneys, subject to the restrictions imposed by subsection (a)(2)(C) of  
2 K.S.A. 38-1507 and amendments thereto;

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

4 (d) any individual, or public or private agency authorized by a prop-  
5 erly constituted authority to diagnose, care for, treat or supervise a child  
6 who is the subject of a report or record of child abuse or neglect and  
7 specifically includes the following: Physicians, psychiatrists, ~~nurse~~ nurses,  
8 nurse practitioners, psychologists, licensed social workers, child devel-  
9 opment specialists, physician assistants, community mental health work-  
10 ers, alcohol and drug abuse counselors, and licensed or registered child  
11 care providers. Teachers, administrators and school paraprofessionals  
12 shall have access but shall not copy materials in the file;

13 (e) law enforcement officers or county or district attorneys or their  
14 staff when necessary for the discharge of their official duties in investi-  
15 gating or prosecuting a report of known or suspected child abuse or ne-  
16 glect;

17 (f) any member of the standing house or senate committee on judi-  
18 ciary, house committee on appropriations, senate committee on ways and  
19 means, legislative post audit committee and joint committee on children  
20 and families, carrying out such member's or committee's official func-  
21 tions; and

22 (g) any juvenile intake and assessment worker.

23 Sec. 41. K.S.A. 1996 Supp. 38-1522 is hereby amended to read as  
24 follows: 38-1522. (a) When any of the following persons has reason to  
25 suspect that a child has been injured as a result of physical, mental or  
26 emotional abuse or neglect or sexual abuse, the person shall report the  
27 matter promptly as provided in subsection (c) or (e): Persons licensed to  
28 practice the healing arts or dentistry; persons licensed to practice optom-  
29 etry; persons engaged in postgraduate training programs approved by the  
30 state board of healing arts; licensed psychologists; licensed professional  
31 or practical nurses examining, attending or treating a child under the age  
32 of 18; teachers, school administrators or other employees of a school  
33 which the child is attending; chief administrative officers of medical care  
34 facilities; registered marriage and family therapists; persons licensed by  
35 the secretary of health and environment to provide child care services or  
36 the employees of persons so licensed at the place where the child care  
37 services are being provided to the child; licensed social workers; firefight-  
38 ers; emergency medical services personnel; mediators appointed under  
39 K.S.A. 23-602 and amendments thereto; juvenile intake and assessment  
40 workers; and law enforcement officers. The report may be made orally  
41 and shall be followed by a written report if requested. When the suspicion  
42 is the result of medical examination or treatment of a child by a member  
43 of the staff of a medical care facility or similar institution. that staff mem-

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Clarifying that child abuse reports from SRS or JJA institutions are made to the attorney general. Also, reports of child abuse by persons employed by SRS or JJA shall be made to the appropriate law enforcement agency.

1 ber shall immediately notify the superintendent, manager or other person  
 2 in charge of the institution who shall make a written report forthwith.  
 3 Every written report shall contain, if known, the names and addresses of  
 4 the child and the child's parents or other persons responsible for the  
 5 child's care, the child's age, the nature and extent of the child's injury  
 6 (including any evidence of previous injuries) and any other information  
 7 that the maker of the report believes might be helpful in establishing the  
 8 cause of the injuries and the identity of the persons responsible for the  
 9 injuries.

10 (b) Any other person who has reason to suspect that a child has been  
 11 injured as a result of physical, mental or emotional abuse or neglect or  
 12 sexual abuse may report the matter as provided in subsection (c) or (e).

13 (c) Except as provided by subsection (e), reports made pursuant to  
 14 this section shall be made to the state department of social and rehabil-  
 15 itation services. When the department is not open for business, the re-  
 16 ports shall be made to the appropriate law enforcement agency. On the  
 17 next day that the state department of social and rehabilitation services is  
 18 open for business, the law enforcement agency shall report to the de-  
 19 partment any report received and any investigation initiated pursuant to  
 20 subsection (a) of K.S.A. 38-1524 and amendments thereto. The reports  
 21 may be made orally or, on request of the department, in writing.

22 (d) Any person who is required by this section to report an injury to  
 23 a child and who knows of the death of a child shall notify immediately  
 24 the coroner as provided by K.S.A. 22a-242, and amendments thereto.

25 (e) Reports of child abuse or neglect occurring in an institution op-  
 26 erated by the secretary of social and rehabilitation services or the com-  
 27 missioner of juvenile justice shall be made to the attorney general. All  
 28 other reports of child abuse or neglect by persons employed by or of  
 29 children of persons employed by the state department of social and re-  
 30 habilitation services or the juvenile justice authority shall be made to the  
 31 appropriate law enforcement agency.

32 (f) Willful and knowing failure to make a report required by this sec-  
 33 tion is a class B misdemeanor.

34 (g) Preventing or interfering with, with the intent to prevent, the  
 35 making of a report required by this section is a class B misdemeanor.

36 Sec. 42. K.S.A. 1995 Supp. 38-1602, as amended by section 41 of  
 37 chapter 229 of the 1996 Session Laws of Kansas, is hereby amended to  
 38 read as follows: 38-1602. As used in this code, unless the context other-  
 39 wise requires:

40 (a) "Juvenile" means a person 10 or more years of age but less than  
 41 18 years of age.

42 (b) "Juvenile offender" means a person who does an act while a ju-  
 43 venile which if done by an adult would constitute the commission of a

Clarifying who is a juvenile offender.

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1 felony or misdemeanor as defined by K.S.A. 21-3105 and amendments  
2 thereto or who violates the provisions of K.S.A. 21-4204a or K.S.A. 41-  
3 727 or subsection (j) of K.S.A. 74-8810, and amendments thereto, but  
4 does not include:

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

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

9 (3) a person whose prosecution as an adult is authorized pursuant  
10 to K.S.A. 38-1636 and amendments thereto; *and whose prosecution re-*  
11 *sults in the conviction of an adult crime; or*

12 (4) *a person who has been found to be an extended jurisdiction ju-*  
13 *venile pursuant to subsection (a)(2) of K.S.A. 38-1636, and amendments*  
14 *thereto, and whose stay of adult sentence execution has been revoked.*

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

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

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

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

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

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

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

35 (j) "Jail" means:

36 (1) An adult jail or lockup; or

37 (2) a facility in the same building as an adult jail or lockup, unless the  
38 facility meets all applicable licensure requirements under law and there  
39 is (A) total separation of the juvenile and adult facility spatial areas such  
40 that there could be no haphazard or accidental contact between juvenile  
41 and adult residents in the respective facilities; (B) total separation in all  
42 juvenile and adult program activities within the facilities, including rec-  
43 reation, education, counseling, health care, dining, sleeping, and general

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5-11-15

1 living activities; and (C) separate juvenile and adult staff, including man-  
2 agement, security staff and direct care staff such as recreational, educa-  
3 tional and counseling.

4 (k) "Court-appointed special advocate" means a responsible adult,  
5 other than an attorney appointed pursuant to K.S.A. 38-1606 and amend-  
6 ments thereto, who is appointed by the court to represent the best inter-  
7 ests of a child, as provided in K.S.A. ~~1995~~ 1996 Supp. 38-1606a, and  
8 amendments thereto, in a proceeding pursuant to this code.

9 (l) "Juvenile intake and assessment worker" means a responsible  
10 adult authorized to perform intake and assessment services as part of the  
11 intake and assessment system established pursuant to ~~section 5~~ K.S.A.  
12 1996 Supp. 76-3202, and amendments thereto.

13 (m) "Institution" means the following institutions: The ~~Atchison~~ ju-  
14 venile correctional facility at ~~Atchison~~, the ~~Beloit~~ juvenile correctional  
15 facility at ~~Beloit~~, the ~~Larned~~ juvenile correctional facility at ~~Larned~~, the  
16 juvenile correctional facility at ~~Osawatomie~~ and the ~~Topeka~~ juvenile cor-  
17 rectional facility at ~~Topeka~~.

18 Sec. 43. K.S.A. 38-1604, as amended by section 42 of chapter 229 of  
19 the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
20 38-1604. (a) Except as provided in K.S.A. 38-1636 and 21-3611 and  
21 amendments thereto, proceedings concerning a juvenile who appears to  
22 be a juvenile offender shall be governed by the provisions of this code.

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

25 (c) When jurisdiction is acquired by the district court over an alleged  
26 juvenile offender it may continue until ~~the juvenile is~~ (1) *Sixty days*  
27 *after sentencing, if the juvenile is committed to the custody of the com-*  
28 *missioner pursuant to subsection (c) of K.S.A. 38-1665, and amendments*  
29 *thereto; (2) if directly committed to a juvenile correctional facility, the*  
30 *juvenile has attained the age of 23 years, unless an adult sentence is im-*  
31 *posed pursuant to an extended jurisdiction juvenile prosecution. If such*  
32 *adult sentence is imposed, jurisdiction shall continue until discharged by*  
33 *the court or other process for the adult sentence; ~~(3)~~ (3) the juvenile has*  
34 *been discharged by the court; or ~~(4)~~ (4) the juvenile has been discharged*  
35 *under the provisions of K.S.A. 38-1675, and amendments thereto.*

36 (d) *If a juvenile appears to be a juvenile offender and a child in need*  
37 *of care, the juvenile justice code shall apply to such juvenile. Nothing in*  
38 *this subsection shall preclude such juvenile from accessing services pro-*  
39 *vided by the department of social and rehabilitation services pursuant to*  
40 *the child in need of care code if the judge determines it would be in the*  
41 *best interest of such juvenile.*

42 ~~(d)~~ (e) The provisions of this code shall govern with respect to acts  
43 done on or after July 1, 1997.

Technical amendments with institutions' names being changed.

Provides the court with jurisdiction over a juvenile offender for 60 days for modification of sentence, K.S.A. 38-1665. Clarifies that if the child is a CINC and a juvenile offender, the juvenile justice code applies.

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37

1 Sec. 44. K.S.A. 1995 Supp. 38-1608, as amended by section 48 of  
 2 chapter 229 of the 1996 Session Laws of Kansas, is hereby amended to  
 3 read as follows: 38-1608. (a) All records of law enforcement officers and  
 4 agencies and municipal courts concerning a public offense committed or  
 5 alleged to have been committed by a juvenile under ~~16~~ 14 years of age  
 6 shall be kept readily distinguishable from criminal and other records and  
 7 shall not be disclosed to anyone except:

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

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

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

12 (4) any individual, or any officer of a public or private agency or in-  
 13 stitution, having custody of the juvenile under court order or providing  
 14 educational, medical or mental health services to the juvenile or a court-  
 15 approved advocate for the juvenile;

16 (5) law enforcement officers or county or district attorneys or their  
 17 staff when necessary for the discharge of their official duties;

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

21 (7) juvenile intake and assessment workers;

22 (8) juvenile justice authority;

23 (9) any other person when authorized by a court order, subject to any  
 24 conditions imposed by the order; and

25 (10) as provided in subsection (c).

26 (b) The provisions of this section shall not apply to records concern-  
 27 ing:

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

33 (2) a violation, by a person 16 or more years of age, of any provision  
 34 of chapter 32 of the Kansas Statutes Annotated; or

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

36 (c) All records of law enforcement officers and agencies and munic-  
 37 ipal courts concerning a public offense committed or alleged to have been  
 38 committed by a juvenile 14 or more years of age shall be subject to the  
 39 same disclosure restrictions as the records of adults. Information identi-  
 40 fying victims and alleged victims of sex offenses, as defined in K.S.A.  
 41 chapter 21, article 35, shall not be disclosed or open to public inspection  
 42 under any circumstances. Nothing in this section shall prohibit the victim  
 43 or any alleged victim of any sex offense from voluntarily disclosing their

Opens records to the extent that K.S.A. 38-1607 intends by presuming the official records of an offender 14 or more years of age are open to the public.

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1 *such victim's identity.*

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

6 (e) All records, reports and information obtained as a part of the  
7 juvenile intake and assessment process for juvenile offenders shall be  
8 confidential and shall not be disclosed except as provided in this section  
9 or by rules and regulations established by the commissioner of juvenile  
10 justice.

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

13 (2) The head of any juvenile intake and assessment program, certified  
14 pursuant to the commissioner of juvenile justice, may authorize disclosure  
15 of such records, reports and other information to:

16 (A) A person licensed to practice the healing arts who has before that  
17 person a child whom the person reasonably suspects may be abused or  
18 neglected;

19 (B) a court-appointed special advocate for a child, which advocate  
20 reports to the court, or an agency having the legal responsibility or au-  
21 thorization to care for, treat or supervise a child;

22 (C) a parent or other person responsible for the welfare of a child,  
23 or such person's legal representative, with protection for the identity of  
24 persons reporting and other appropriate persons;

25 (D) the child or the guardian ad litem for such child;

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

27 (F) an agency charged with the responsibility of preventing or treat-  
28 ing physical, mental or emotional abuse or neglect or sexual abuse of  
29 children, if the agency requesting the information has standards of con-  
30 fidentiality as strict or stricter than the requirements of the Kansas code  
31 for care of children or the Kansas juvenile justice code, whichever is  
32 applicable;

33 (G) a person who is a member of a multidisciplinary team;

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

37 (I) any individual, or public or private agency authorized by a properly  
38 constituted authority to diagnose, care for, treat or supervise a child who  
39 is the subject of a report or record of child abuse or neglect and specif-  
40 ically includes the following: Physicians, psychiatrists, nurses, nurse prac-  
41 titioners, psychologists, licensed social workers, child development spe-  
42 cialists, physicians' assistants, community mental health workers, alcohol  
43 and drug abuse counselors and licensed or registered child care providers;

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1 (J) a citizen review board;  
 2 (K) an educational institution if related to a juvenile that is required  
 3 to attend such educational institution as part of an immediate intervention  
 4 program, probation or post-release supervision.

5 (3) To any juvenile intake and assessment worker of another certified  
 6 juvenile intake and assessment program.

7 Sec. 45. K.S.A. 38-1610, as amended by section 50 of chapter 229 of  
 8 the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
 9 38-1610. (a) Except as provided in subsection (b), any records or files  
 10 specified in this code concerning a juvenile offender may be expunged  
 11 upon application to a judge of the court of the county in which the records  
 12 or files are maintained. The application for expungement may be made  
 13 by the person who is the juvenile offender or, if the person is a juvenile,  
 14 by the person's parent or next friend.

15 (b) There shall be no expungement of records or files concerning acts  
 16 committed by a juvenile which, if committed by an adult, would constitute  
 17 a violation of K.S.A. 21-3503, 21-3504, 21-3506, 21-3509, 21-3510, 21-  
 18 3511, 21-3516, 21-3603, 21-3608 or 21-3609 and amendments thereto or  
 19 which would constitute an attempt to commit a violation of any of the  
 20 offenses specified in this subsection.

21 (c) When a petition for expungement is filed, the court shall set a  
 22 date for a hearing on the petition and shall give notice thereof to the  
 23 county or district attorney. The petition shall state: (1) The juvenile's full  
 24 name; (2) the full name of the juvenile at the time of the trial, if different  
 25 than (1); (3) the juvenile's sex and date of birth; (4) the offense for which  
 26 the juvenile was adjudicated; (5) the date of the trial; and (6) the identity  
 27 of the trial court. There shall be no docket fee for filing a petition pursuant  
 28 to this section. All petitions for expungement shall be docketed in the  
 29 original action. Any person who may have relevant information about the  
 30 petitioner may testify at the hearing. The court may inquire into the  
 31 background of the petitioner.

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

34 (A) The person has reached 23 years of age or that two years have  
 35 elapsed since the final discharge of the person;

36 (B) since the final discharge of the person, the person has not been  
 37 convicted of a felony or of a misdemeanor other than a traffic offense or  
 38 adjudicated a delinquent or miscreant under the Kansas juvenile code or  
 39 a juvenile offender under the Kansas juvenile justice code and no pro-  
 40 ceedings are pending seeking such a conviction or adjudication; and

41 (C) the circumstances and behavior of the petitioner warrant  
 42 expungement.

43 (2) The court may require that all court costs, fees and restitution

Technical, there is no longer a delinquent or miscreant under the code.

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 07



1 shall be paid.

2 (e) Upon entry of an order expunging records or files, the offense  
3 which the records or files concern shall be treated as if it never occurred,  
4 except that upon conviction of a crime or adjudication in a subsequent  
5 action under this code the offense may be considered in determining the  
6 sentence to be imposed. The person, the court and all law enforcement  
7 officers and other public offices and agencies shall properly reply on in-  
8 quiry that no record or file exists with respect to the person. Inspection  
9 of the expunged files or records thereafter may be permitted by order of  
10 the court upon petition by the person who is the subject thereof. The  
11 inspection shall be limited to inspection by the person who is the subject  
12 of the files or records and those persons designated by that person.

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

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

21 (h) Nothing in this section shall be construed to prohibit the main-  
22 tenance of information relating to an offense after records or files con-  
23 cerning the offense have been expunged if the information is kept in a  
24 manner that does not enable identification of the offender.

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

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

32 (1) The person whose record was expunged;

33 (2) a criminal justice agency, private detective agency or a private  
34 patrol operator, and the request is accompanied by a statement that the  
35 request is being made in conjunction with an application for employment  
36 with such agency or operator by the person whose record has been ex-  
37 punged;

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

40 (4) the secretary of social and rehabilitation services, or a designee of  
41 the secretary, for the purpose of obtaining information relating to em-  
42 ployment in an institution, as defined in K.S.A. 76-12a01 and amend-  
43 ments thereto, of the department of social and rehabilitation services of

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1 any person whose records record has been expunged;  
2 (5) a person entitled to such information pursuant to the terms of the  
3 expungement order;

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

9 (7) the governor or the Kansas racing commission, or a designee of  
10 the commission, and the request is accompanied by a statement that the  
11 request is being made to aid in determining qualifications for executive  
12 director of the commission, for employment with the commission, for  
13 work in sensitive areas in parimutuel racing as deemed appropriate by  
14 the executive director of the commission or for licensure, renewal of  
15 licensure or continued licensure by the commission; or

16 (8) the Kansas sentencing commission.

17 Sec. 46. K.S.A. 1995 Supp. 38-1611, as amended by section 51 of  
18 chapter 229 of the 1996 Session Laws of Kansas, is hereby amended to  
19 read as follows: 38-1611. (a) Fingerprints or photographs shall not be  
20 taken of any juvenile who is taken into custody for any purpose, except  
21 that:

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

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

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

33 (A) Prosecuted as an adult by reason of subsection (b)(3) of K.S.A.  
34 38-1602 or 38-1636, and amendments thereto; or

35 (B) convicted of aggravated juvenile delinquency as defined by K.S.A.  
36 21-3611 and amendments thereto; or

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

39 (b) Fingerprints and photographs taken under subsection (a)(1) or  
40 (2) shall be kept readily distinguishable from those of persons of the age

41 of majority. Fingerprints and photographs taken under subsection (a)(3)  
42 may be kept in the same manner as those of persons of the age of majority.

43 (c) Fingerprints and photographs of a juvenile shall not be sent to a

Refer only to the adult prosecution statute.

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1 state or federal repository, except that:

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

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

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

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

14 (e) Any fingerprints or photographs of a juvenile taken under the  
15 provisions of subsection (a)(2) as it existed before the effective date of  
16 this act may be sent to a state or federal repository on or before December  
17 31, 1984.

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

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

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

30 Sec. 47. K.S.A. 1996 Supp. 38-1613 is hereby amended to read as  
31 follows: 38-1613. (a) *Docket fee.* The docket fee for proceedings under  
32 this code, if one is assessed as provided by this section, shall be \$25. Only  
33 one docket fee shall be assessed in each case.

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

38 (c) *Assessment of docket fee and expenses.* (1) *Docket fee.* The docket  
39 fee may be assessed or waived by the court conducting the initial disposi-  
40 tional sentencing hearing and may be assessed against the complaining  
41 witness, the person initiating the prosecution, the juvenile offender or  
42 the parent of the juvenile offender. Any docket fee received shall be  
43 remitted to the state treasurer pursuant to K.S.A. 20-362, and amend-

Conflict resolution.

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1 ments thereto.

2 (2) *Waiver and assessment.* Expenses may be waived or assessed  
3 against the complaining witness, the person initiating the prosecution, the  
4 juvenile offender or a parent of the juvenile offender. When expenses are  
5 recovered from a party against whom they have been assessed the general  
6 fund of the county shall be reimbursed in the amount of the recovery.

7 (3) *Prohibited assessment.* Docket fees or expenses shall not be as-  
8 sessed against the state, a political subdivision of the state, an agency of  
9 the state or of a political subdivision of the state or a person acting in the  
10 capacity of an employee of the state or of a political subdivision of the  
11 state.

12 (d) *Cases in which venue is transferred.* If venue is transferred from  
13 one county to another, the court from which the case is transferred shall  
14 send to the receiving court a statement of expenses paid from the general  
15 fund of the sending county. If the receiving court collects any of the  
16 expenses owed in the case, the receiving court shall pay to the sending  
17 court an amount proportional to the sending court's share of the total  
18 expenses owed to both counties. The expenses of the sending county shall  
19 not be an obligation of the receiving county except to the extent that the  
20 sending county's proportion of the expenses is collected by the receiving  
21 court. All amounts collected shall first be applied toward payment of the  
22 docket fee.

23 Sec. 48. K.S.A. 1996 Supp. 38-1614 is hereby amended to read as  
24 follows: 38-1614. (a) *Physical care and treatment.* (1) When the health or  
25 condition of a juvenile who is subject to the jurisdiction of the court  
26 requires it, the court may consent to the performing and furnishing of  
27 hospital, medical, surgical or dental treatment or procedures including  
28 the release and inspection of medical or dental records.

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

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

Conflict resolution.

# 5-10

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

4 (b) *Mental care and treatment.* If it is brought to the court's attention,  
5 while the court is exercising jurisdiction over the person of a juvenile  
6 under this code, that the juvenile may be a mentally ill person as defined  
7 in K.S.A. 1996 Supp. 59-2946 and amendments thereto, the court may:

8 (1) Direct or authorize the county or district attorney or the person  
9 supplying the information to file the petition provided for in K.S.A. 1996  
10 Supp. 59-2957 and amendments thereto, and proceed to hear and deter-  
11 mine the issues raised by the application as provided in the care and  
12 treatment act for mentally ill persons; or

13 (2) authorize that the juvenile seek voluntary admission to a treat-  
14 ment facility as provided in K.S.A. 1996 Supp. 59-2949 and amendments  
15 thereto.

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

22 Sec. 49. K.S.A. 38-1618, as amended by section 59 of chapter 229 of  
23 the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
24 38-1618. (a) In order to properly advise the three branches of government  
25 on the operation of the juvenile justice system, there is hereby established  
26 within and as a part of the central repository, as defined by K.S.A. 22-  
27 4701 and amendments thereto, a juvenile offender information system.  
28 The system shall serve as a repository of juvenile offender information  
29 which is collected by juvenile justice agencies and reported to the system.  
30 Unless extended by an official action of the Kansas criminal justice co-  
31 ordinating council, the juvenile offender information system shall be op-  
32 erational and functional on or before July 1, 1997.

33 (b) Except as otherwise provided by this subsection, every juvenile  
34 justice agency shall report juvenile offender information, whether col-  
35 lected manually or by means of an automated system, to the central re-  
36 pository, in accordance with rules and regulations adopted pursuant to  
37 this section. A juvenile justice agency shall report to the central repository  
38 those reportable events involving a violation of a county resolution or city  
39 ordinance only when required by rules and regulations adopted by the  
40 director.

41 (c) Reporting methods may include:

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

— Allows the secretary access to information relating to an individual in the  
secretary's custody from the repository.

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

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

7 (d) The director may determine, by rule and regulation, the report-  
8 able events to be reported by each juvenile justice agency, in order to  
9 avoid duplication in reporting.

10 (e) Juvenile offender information maintained in the juvenile offender  
11 information system is confidential and shall not be disseminated or pub-  
12 licly disclosed in a manner which enables identification of any individual  
13 who is a subject of the information, except that the information shall be  
14 open to inspection by law enforcement agencies of this state, *by the de-*  
15 *partment of social and rehabilitation services if related to an individual*  
16 *in the secretary's custody or control*, by the juvenile justice authority if  
17 related to an individual in the commissioner's custody or control, by the  
18 department of corrections if related to an individual in the commissioner's  
19 custody or control, by the educational institution to the extent allowed  
20 pursuant to law or pursuant to a court order, if related to an individual  
21 that is required to attend such educational institution as part of an im-  
22 mediate intervention program, probation or post-release supervision by  
23 the officers of any public institution to which the individual is committed,  
24 by county and district attorneys, by attorneys for the parties to a pro-  
25 ceeding under this code, the intake and assessment worker or upon order  
26 of a judge of the district court or an appellate court.

27 (f) Any journal entry of a trial of a juvenile adjudged to be a juvenile  
28 offender shall state the number of the statute under which the juvenile  
29 is adjudicated to be a juvenile offender and specify whether each offense,  
30 if done by an adult, would constitute a felony or misdemeanor, as defined  
31 by K.S.A. 21-3105 and amendments thereto.

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

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

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

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

43 Sec. 50. K.S.A. 38-1632, as amended by section 64 of chapter 229 of

Requested by Southwest Regional Juvenile Detention Center, Garden City. Allow the use of audio-video communications for detention hearings.

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1 the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
 2 38-1632. (a) *Length of detention.* (1) Whenever an alleged juvenile of-  
 3 fender is taken into custody and is thereafter taken before the court or  
 4 to a juvenile detention facility or youth residential facility designated by  
 5 the court, the juvenile shall not remain detained for more than 48 hours,  
 6 excluding Saturdays, Sundays and legal holidays, from the time the initial  
 7 detention was imposed, unless the court determines after hearing, within  
 8 the 48-hour period, that further detention is necessary.

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

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

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

29 (Name of Court)

30 (Caption of Case)

31 NOTICE OF DETENTION HEARING

32 TO: \_\_\_\_\_

33 (Juvenile)

34 \_\_\_\_\_

35 (Father)

36 \_\_\_\_\_

37 (Mother)

38 \_\_\_\_\_

39 (Other having custody-  
 40 relationship)

(Address)

41 On \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_o'clock \_\_\_\_m. there will be a hearing  
 42 (day) (date)

43 for the court to determine if there is a need for further detention of the above named

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1 juvenile. Each parent or other person having legal custody of the juvenile should be present  
2 at the hearing which will be held at \_\_\_\_\_

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

8 Date: \_\_\_\_\_, 19\_\_\_\_ Clerk of the District Court  
9 by \_\_\_\_\_

10 (Seal)

11 REPORT OF SERVICE

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

14 Name	14 Location of Service	14 Manner of Service	14 Date	14 Time
15 (other than above)				
16 _____	_____	_____	_____	_____
17 _____	_____	_____	_____	_____

18 Date Returned: \_\_\_\_\_, 19\_\_\_\_ \_\_\_\_\_  
19 (Signature)

20 \_\_\_\_\_  
21 (Title)

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

25 (Name of Court)

26 (Caption of Case)

27 CERTIFICATE OF ORAL NOTICE OF DETENTION HEARING

28 I gave oral notice that the court will hold a hearing at \_\_\_\_\_ o'clock \_\_\_\_\_ m. on \_\_\_\_\_  
29 19\_\_\_\_, to the persons listed, in the manner and at the times indicated below:

30 Name	30 Relationship	30 Date	30 Time	30 Method of Communication
31 _____	_____	_____	_____	_____ (in person or telephone)
32 _____	_____	_____	_____	_____
33 _____	_____	_____	_____	_____

34 I advised each of the above named persons that:

- 35 (1) The hearing is to determine if the above named juvenile shall be detained;
- 36 (2) each parent or person having legal custody should be present at the hearing;
- 37 (3) they have the right to hire an attorney of their own choice for the juvenile;
- 38 (4) if an attorney is not hired, the court will appoint an attorney for the juvenile;
- 39 (5) the juvenile, parent or other person having custody of the juvenile may be required to
- 40 repay the court for the expense of the appointed attorney; and
- 41 (6) the court may order one or both parents to pay child support.

42 \_\_\_\_\_  
43 (Signature)

BH-S



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\_\_\_\_\_  
(Name Printed)  
\_\_\_\_\_

(Title)

(c) *Hearing, finding, bond.* At the time set for the detention hearing if no retained attorney is present to represent the juvenile, the court shall appoint an attorney for the juvenile, and may recess the hearing for 24 hours to obtain attendance of the attorney appointed unless the juvenile is detained in jail pursuant to subsection (b)(1) of K.S.A. 38-1691 and amendments thereto. At the detention hearing, if the court finds the juvenile is dangerous to self or others, the juvenile may be detained in a juvenile detention facility or youth residential facility which the court shall designate. If the court finds the juvenile is not likely to appear for further proceedings, the juvenile may be detained in a juvenile detention facility or youth residential facility which the court shall designate or may be released upon the giving of an appearance bond in an amount specified by the court and on the conditions the court may impose, in accordance with the applicable provisions of article 28 of chapter 22 of the Kansas Statutes Annotated and amendments thereto. In the absence of either finding, the court shall order the juvenile released or placed in temporary custody as provided in subsection (f).

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

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

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

(g) *Audio-video communications.* Detention hearings may be conducted by two-way electronic audio-video communication between the alleged juvenile offender and the judge in lieu of personal presence of the juvenile or the juvenile's counsel in the courtroom from any location within Kansas in the discretion of the court. The juvenile may be accompanied by the juvenile's counsel during such proceedings or counsel may be personally present in court as long as a means of communication between the juvenile and the juvenile's counsel is available for consultation

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1 *between the juvenile and the juvenile's counsel in confidence.*

2 Sec. 51. K.S.A. 38-1633, as amended by section 65 of chapter 229 of  
3 the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
4 38-1633. (a) When the respondent appears in response to a complaint  
5 without an attorney, the court shall inform the respondent of the follow-  
6 ing:

- 7 (1) The nature of the charges in the complaint;
- 8 (2) the right to hire an attorney of the respondent's own choice;
- 9 (3) the duty of the court to appoint an attorney for the respondent if  
10 no attorney is hired by the respondent or parent; and
- 11 (4) that the court may require the respondent or parents to pay the  
12 expense of a court appointed attorney.

13 Upon request the court shall give the respondent or parent an oppor-  
14 tunity to hire an attorney. If no request is made or the respondent or  
15 parents are financially unable to hire an attorney, the court shall forthwith  
16 appoint an attorney for the respondent. The court shall afford the re-  
17 spondent an opportunity to confer with the attorney before requiring the  
18 respondent to plead to the allegations of the complaint.

19 (b) When the respondent appears with an attorney in response to a  
20 complaint, the court shall require the respondent to plead guilty or not  
21 guilty to the allegations stated in the complaint or plead *nolo contendere*,  
22 unless there is an application for and approval of an immediate interven-  
23 tion program. Prior to making this requirement, the court shall inform  
24 the respondent of the following:

- 25 (1) The nature of the charges in the complaint;
- 26 (2) the right of the respondent to be presumed innocent of each  
27 charge;
- 28 (3) the right to trial without unnecessary delay and to confront and  
29 cross-examine witnesses appearing in support of the allegations of the  
30 complaint;
- 31 (4) the right to subpoena witnesses;
- 32 (5) the right of the respondent to testify or to decline to testify; and
- 33 (6) the sentencing alternatives the court may select as the result of  
34 the juvenile being adjudged to be a juvenile offender.

35 (c) If the respondent pleads guilty to the allegations contained in a  
36 complaint or pleads *nolo contendere*, the court shall determine, before  
37 accepting the plea and entering a sentence: (1) That there has been a  
38 voluntary waiver of the rights enumerated in subsections (b)(2), (3), (4)  
39 and (5); and (2) that there is a factual basis for the plea.

40 (d) If the respondent pleads not guilty, the court shall schedule a time  
41 and date for trial to the court.

42 (e) *Pretrial hearings may be conducted by two-way electronic audio-*  
43 *video communication between the alleged juvenile offender and the judge*

Requested by Southwest Regional Juvenile Detention Center, Garden City. Allow the use of audio-video communications for pretrial hearings.

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1 *in lieu of personal presence of the juvenile or the juvenile's counsel in the*  
 2 *courtroom from any location within Kansas in the discretion of the court.*  
 3 *The juvenile may be accompanied by the juvenile's counsel during such*  
 4 *proceedings or counsel may be personally present in court as long as a*  
 5 *means of communication between the juvenile and the juvenile's counsel*  
 6 *is available for consultation between the juvenile and the juvenile's counsel*  
 7 *in confidence.*

8 Sec. 52. K.S.A. 1995 Supp. 38-1635, as amended by section 66 of  
 9 chapter 229 of the 1996 Session Laws of Kansas, is hereby amended to  
 10 read as follows: 38-1635. (a) Except as provided in subsection (b), each  
 11 ~~court~~ *county or district attorney* may adopt a policy and establish guide-  
 12 lines for an immediate intervention program by which a respondent may  
 13 avoid prosecution as a juvenile offender. In addition to the ~~court~~ *county*  
 14 *or district attorney* adopting policies and guidelines for the immediate  
 15 intervention programs, the court, the county or district attorney and the  
 16 director of the intake and assessment center, pursuant to a written agree-  
 17 ment, may develop local programs to:

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

22 (2) Allow intake and assessment workers to issue a summons, as de-  
 23 fined in subsection (e).

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

26 (4) Allow intake and assessment workers to direct the release of a  
 27 juvenile prior to a detention hearing after the completion of the intake  
 28 and assessment process if the juvenile intake and assessment worker has  
 29 reason to believe that if released the juvenile will appear for further pro-  
 30 ceedings and will not be dangerous to self or others.

31 (b) An immediate intervention program shall provide that a respon-  
 32 dent is ineligible for such program if the respondent has been previously  
 33 adjudicated to be a juvenile offender, or faces pending charges as a ju-  
 34 venile offender, for committing acts which, if committed by an adult,  
 35 would constitute:

36 (1) A violation of K.S.A. 8-1567 and amendments thereto and the  
 37 respondent: (A) Has previously participated in an immediate intervention  
 38 program instead of prosecution of a complaint alleging a violation of that  
 39 statute or an ordinance of a city in this state which prohibits the acts  
 40 prohibited by that statute; (B) has previously been adjudicated of a vio-  
 41 lation of that statute or a violation of a law of another state or of a political  
 42 subdivision of this or any other state, which law prohibits the acts pro-  
 43 hibited by that statute; or (C) during the time of the alleged violation was

The county or district attorney would be responsible for the immediate intervention programs, not the court.

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1 involved in a motor vehicle accident or collision resulting in personal  
2 injury or death; or

3 (2) a violation of an off-grid crime, a person felony, or a felony or  
4 misdemeanor committed when the respondent was in possession of a  
5 deadly weapon.

6 (c) An immediate intervention program may include a stipulation,  
7 agreed to by the respondent, the respondent's attorney and the attorney  
8 general or county or district attorney, of the facts upon which the charge  
9 is based and a provision that if the respondent fails to fulfill the terms of  
10 the specific immediate intervention agreement and the immediate inter-  
11 vention proceedings are resumed, the proceedings, including any pro-  
12 ceedings on appeal, shall be conducted on the record of the stipulation  
13 of facts.

14 (d) The ~~court~~ county or district attorney may require the parent or  
15 guardian of a juvenile offender to be a part of the immediate intervention  
16 program for the juvenile offender.

17 (e) "Summons" means a written order issued by an intake and as-  
18 sessment worker directing that a respondent appear before a designated  
19 court at a stated time and place and answer to a charge pending against  
20 the respondent.

21 Sec. 53. K.S.A. 38-1636, as amended by section 67 of chapter 229 of  
22 the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
23 38-1636. (a) (1) Except as provided further, at any time after commence-  
24 ment of proceedings under this code against a respondent and prior to  
25 entry of a sentence or the beginning of an evidentiary hearing at which  
26 the court may enter a sentence as provided in K.S.A. 38-1655, and amend-  
27 ments thereto, the county or district attorney may file a motion requesting  
28 that the court authorize prosecution of the respondent as an adult under  
29 the applicable criminal statute. The respondent shall be presumed to be  
30 a juvenile unless good cause is shown to prosecute the respondent as an  
31 adult.

32 (2) At any time after commencement of proceedings under this code  
33 against a respondent who was: (A) 14, 15, 16 or 17 years of age at the  
34 time of the offense or offenses alleged in the complaint, if any such of-  
35 fense (i) if committed by an adult, would be an offgrid offense, a person  
36 felony, a nondrug severity level 1 through 6 felony or any drug severity  
37 level 1 or 2 felony; or (ii) was committed while in possession of a firearm;  
38 or (B) charged with a felony or with more than one offense of which one  
39 or more is a felony after having been adjudicated or convicted in a sep-  
40 arate prior juvenile proceeding as having committed an act which would  
41 constitute a felony if committed by an adult and the adjudications or  
42 convictions occurred prior to the date of the commission of the new act  
43 charged and prior to the entry of a sentence or the beginning of an evi-

Clarifying that the crime is a nondrug crime, and there is no longer a delinquent or miscreant under the code. Subsection (h) clarifies that once your convicted as an adult, you are always prosecuted as an adult. Subsection (i) clarifies that if you are convicted of a lesser included offense in what circumstances you will be considered a juvenile offender or an adult.

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1 dentiary hearing at which the court may enter a sentence as provided in  
2 K.S.A. 38-1655, and amendments thereto, the county or district attorney  
3 may file a motion requesting that the court authorize prosecution of the  
4 respondent as an adult under the applicable criminal statute. The re-  
5 spondent shall be presumed to be an adult. The burden of proof is on  
6 the respondent to rebut the presumption.

7 (3) At any time after commencement of proceedings under this code  
8 against a respondent and prior to entry of a sentence or the beginning of  
9 an evidentiary hearing at which the court may enter a sentence as pro-  
10 vided in K.S.A. 38-1655, and amendments thereto, the county or district  
11 attorney may file a motion requesting that the court designate the pro-  
12 ceedings as an extended jurisdiction juvenile prosecution as provided fur-  
13 ther. If the county or district attorney files a motion to designate the  
14 proceedings as an extended jurisdiction juvenile prosecution and the re-  
15 spondent was: (A) charged with an offense (i) if committed by an adult,  
16 would be an offgrid felony, a person felony, a *nondrug* severity level 1  
17 through 6 felony or any drug severity level 1 or 2 felony; or (ii) was  
18 committed while in possession of a firearm; or (B) charged with a felony  
19 or with more than one offense of which one or more is a felony after  
20 having been adjudicated or convicted in a separate prior juvenile pro-  
21 ceeding as having committed an act which would constitute a felony ~~is if~~  
22 committed by an adult and the adjudications or convictions occurred prior  
23 to the date of the commission of the new act charged, the burden of proof  
24 is on the respondent to rebut the designation of an extended jurisdiction  
25 juvenile prosecution.

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

34 (c) Upon receiving a motion as established in subsection (a), the court  
35 shall set a time and place for hearing on the motion. The court shall give  
36 notice of the hearing to the respondent, each parent of the respondent,  
37 if service is possible, and the attorney representing the respondent. The  
38 motion shall be heard and determined prior to any further proceedings  
39 on the complaint.

40 (d) If the respondent fails to appear for hearing on a motion as es-  
41 tablished in subsection (a) after having been properly served with notice  
42 of the hearing, the court may hear and determine the motion in the  
43 absence of the respondent. If the court is unable to obtain service of

1 process and give notice of the hearing, the court may hear and determine  
2 the motion in the absence of the respondent after having given notice of  
3 the hearing once a week for two consecutive weeks in a newspaper au-  
4 thorized to publish legal notices in the county where the hearing will be  
5 held.

6 (e) In determining whether or not prosecution as an adult should be  
7 authorized or designating the proceeding as an extended jurisdiction ju-  
8 venile prosecution, the court shall consider each of the following factors:  
9 (1) The seriousness of the alleged offense and whether the protection of  
10 the community requires prosecution as an adult or designating the pro-  
11 ceeding as an extended jurisdiction juvenile prosecution; (2) whether the  
12 alleged offense was committed in an aggressive, violent, premeditated or  
13 willful manner; (3) whether the offense was against a person or against  
14 property, greater weight being given to offenses against persons, espe-  
15 cially if personal injury resulted; (4) the number of alleged offenses un-  
16 adjudicated and pending against the respondent; (5) the previous history  
17 of the respondent, including whether the respondent had been adjudi-  
18 cated a ~~delinquent or miscreant under the Kansas juvenile code~~ or a  
19 juvenile offender under this code and, if so, whether the offenses were  
20 against persons or property, and any other previous history of antisocial  
21 behavior or patterns of physical violence; (6) the sophistication or maturity  
22 of the respondent as determined by consideration of the respondent's  
23 home, environment, emotional attitude, pattern of living or desire to be  
24 treated as an adult; (7) whether there are facilities or programs available  
25 to the court which are likely to rehabilitate the respondent prior to the  
26 expiration of the court's jurisdiction under this code; and (8) whether the  
27 interests of the respondent or of the community would be better served  
28 by criminal prosecution or extended jurisdiction juvenile prosecution. The  
29 insufficiency of evidence pertaining to any one or more of the factors  
30 listed in this subsection shall not in and of itself be determinative of the  
31 issue. Subject to the provisions of K.S.A. 38-1653, and amendments  
32 thereto, written reports and other materials relating to the respondent's  
33 mental, physical, educational and social history may be considered by the  
34 court.

35 (f) (1) The court may authorize prosecution as an adult upon com-  
36 pletion of the hearing if the court finds that there is substantial evidence  
37 that the respondent should be prosecuted as an adult for the offense with  
38 which the respondent is charged. In that case, the court shall direct the  
39 respondent be prosecuted under the applicable criminal statute and that  
40 the proceedings filed under this code be dismissed.

41 (2) The court may designate the proceeding as an extended jurisdic-  
42 tion juvenile prosecution upon completion of the hearing if the respon-  
43 dent has failed to rebut the presumption or the court finds that there is

1 substantial evidence that the respondent should be prosecuted under an  
2 extended jurisdiction juvenile prosecution. A juvenile who is the subject  
3 of an extended jurisdiction juvenile prosecution shall have the right to a  
4 trial by jury, to the effective assistance of counsel and to all other rights  
5 of a defendant pursuant to the Kansas code of criminal procedure.

6 (g) If the respondent is present in court and the court also finds from  
7 the evidence that it appears a felony has been committed and that there  
8 is probable cause to believe the felony has been committed by the re-  
9 spondent, the court may direct that there is no necessity for further pre-  
10 liminary examination on the charges as provided for in K.S.A. 22-2902,  
11 and amendments thereto. In that case, the court shall order the respon-  
12 dent bound over to the district judge having jurisdiction to try the case.

13 (h) If the respondent is convicted, the authorization for prosecution  
14 as an adult *may shall* attach and apply to any future acts by the respondent  
15 which are or would be cognizable under this code ~~if the order of the court~~  
16 ~~so provides.~~

17 (i) If the respondent is prosecuted as an adult under subsection (f)(1)  
18 and convicted of a lesser included offense *that is not an offense listed in*  
19 *subsection (a)(2)*, the respondent shall be a juvenile offender and receive  
20 a sentence pursuant to K.S.A. 38-1663, and amendments thereto.

21 Sec. 54. K.S.A. 1996 Supp. 38-1640 is hereby amended to read as  
22 follows: 38-1640. (a) The following are criteria for determining whether  
23 to place a juvenile in a juvenile detention facility pursuant to subsection  
24 (c) of K.S.A. 38-1624 or subsection (e) of K.S.A. 38-1632, and amend-  
25 ments thereto:

26 (1) There is oral or written verification that the juvenile is a fugitive  
27 sought for an offense in another jurisdiction or that the juvenile is cur-  
28 rently an escapee from a juvenile detention facility.

29 (2) The juvenile is alleged to have committed an offense which if  
30 committed by an adult would constitute a class A, B or C felony if com-  
31 mitted prior to July 1, 1993, or would constitute an off-grid felony, a  
32 nondrug severity level 1, 2, 3, 4 or 5 felony or drug level 1, 2 or 3 felony  
33 if committed on or after July 1, 1993, or would constitute a crime de-  
34 scribed in article 35 of chapter 21 of the Kansas Statutes Annotated.

35 (3) The juvenile is awaiting court action on an offense which if com-  
36 mitted by an adult would constitute a felony.

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

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

41 (6) The juvenile exhibited seriously assaultive or destructive behavior  
42 at the time of being taken into custody and continued such behavior after  
43 taken into custody.

Conflict resolution.

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1 (7) The juvenile exhibited self-destructive behavior at the time of  
2 being taken into custody and continued such behavior after taken into  
3 custody.

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

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

8 (b) This section shall be part of and supplemental to the Kansas ju-  
9 venile offenders justice code.

10 Sec. 55. K.S.A. 38-1661, as amended by section 79 of chapter 229 of  
11 the 1996 Session Laws of Kansas, is hereby amended to read as follows:

12 38-1661. (a) Prior to a sentencing hearing, the court shall request an  
13 investigation and report by a court services officer unless the court finds  
14 that adequate and current information is available from a previous inves-  
15 tigation, report or other sources. Upon request of the prosecuting attor-  
16 ney or the attorney for the respondent, the court shall make available to  
17 the attorney the report of the investigation and shall allow the attorney a  
18 reasonable time to review the report before ordering the sentencing of  
19 the respondent. *As part of the investigation the commissioner of juvenile  
20 justice shall designate a risk assessment tool to be used statewide. Such  
21 assessment tool shall be utilized by the court in determining sentencing.*

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

33 (c) At any time after the respondent has been adjudicated to be a  
34 juvenile offender and prior to sentencing, the judge, at the request of an  
35 interested party, shall hear additional evidence as to proposals for rea-  
36 sonable and appropriate sentencing of the case.

37 Sec. 56. K.S.A. 38-1662, as amended by section 80 of chapter 229 of  
38 the 1996 Session Laws of Kansas, is hereby amended to read as follows:

39 38-1662. (a) *Psychological or emotional.* Following the juvenile being ad-  
40 judged to be a juvenile offender under this code the court may order an  
41 evaluation and written report of the psychological or emotional devel-  
42 opment or needs of the juvenile offender. ~~The court may refer the ju-  
43 venile offender to a state institution for the evaluation if the commissioner~~

The commissioner shall designate a risk assessment tool for statewide use for  
uniformity.

Delete in favor of using community-based programming and evaluation. The  
central evaluation and treatment unit is no longer an option.

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1 advises the court that the facility is a suitable place to care for, treat or  
 2 evaluate the juvenile offender and that space is available. The expenses  
 3 of transportation to and from the state facility may be paid as a part of  
 4 the expenses of the proceedings. The juvenile offender may be referred  
 5 to a mental health center or a qualified professional for the evaluation,  
 6 and the expenses of the evaluation may be considered as expenses of the  
 7 proceedings and assessed as provided in this code. If the court orders an  
 8 evaluation as provided in this section, a parent of the juvenile offender  
 9 shall have the right to obtain an independent evaluation at the expense  
 10 of the parent.

11 (b) *Medical.* Following the juvenile being adjudged to be a juvenile  
 12 offender under this code, the court may order an examination and report  
 13 of the medical condition and needs of the juvenile offender who is the  
 14 subject of the proceedings. The court may also order a report from any  
 15 physician who has been attending the juvenile offender stating the diag-  
 16 nosis, condition and treatment afforded the juvenile offender.

17 (c) *Educational.* The court may order the chief administrative officer  
 18 of the school which the juvenile offender attends or attended to provide  
 19 to the court information that is readily available which the school officials  
 20 feel would properly indicate the educational needs of the juvenile of-  
 21 fender. The order may direct that the school conduct an educational  
 22 needs assessment of the juvenile offender and send a report thereof to  
 23 the court. The educational needs assessment may include a meeting in-  
 24 volving any of the following: (1) The juvenile offender's parents, (2) the  
 25 juvenile offender's teacher or teachers, (3) the school psychologist, (4) a  
 26 school special services representative, (5) a representative of the com-  
 27 missioner, (6) the juvenile offender's C.A.S.A., (7) the juvenile offender's  
 28 foster parents or legal guardian and (8) other persons that the chief ad-  
 29 ministrative officer of the school, or the officer's designee, deems appro-  
 30 priate.

31 Sec. 57. K.S.A. 1995 Supp. 38-1663, as amended by section 81 of  
 32 chapter 229 of the 1996 Session Laws of Kansas, is hereby amended to  
 33 read as follows: 38-1663. (a) When a respondent has been adjudged to  
 34 be a juvenile offender, the judge may select from the following alterna-  
 35 tives:

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

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

43 (3) Place the juvenile offender in the custody of a youth residential

Include sanctions houses as a dispositional option for the court. Also include jail as an option for the 18-23 year old as a sanction for a probation violation. Subsection (a)(8) will allow the commissioner to determine where juvenile offenders need to be placed. There is no longer a delinquent or miscreant under the code.

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1 facility, subject to the terms and conditions the court orders.

2 (4) Place the juvenile offender in the custody of the commissioner.

3 (5) Impose any appropriate combination of subsections (a)(1) and (2),  
4 subsection (a)(3) or subsection (a)(4) and make other orders directed to  
5 the juvenile offender as the court deems appropriate.

6 (6) *Commit the juvenile offender to a sanctions house for a period no  
7 longer than 72 hours.*

8 (7) *Commit the juvenile offender, if 18 years of age or less than 23  
9 years of age, to the county jail for a period no longer than seven days and  
10 only when the juvenile offender has violated probation.*

11 ~~(6)~~ (8) Commit the juvenile offender, ~~if 13 years of age or older,~~ to  
12 a juvenile correctional facility if the juvenile offender:

13 (A) Has previously been adjudged as a juvenile offender under this  
14 code ~~or as a delinquent or miscreant under the Kansas juvenile code;~~ or

15 (B) has been adjudicated a juvenile offender as a result of having  
16 committed an act which, if done by a person 18 years of age or over,  
17 would constitute a class A, B or C felony as defined by the Kansas criminal  
18 code or, if done on or after July 1, 1993, would constitute an off-grid  
19 crime or a nondrug crime ranked in severity level 1 through 5 or a drug  
20 crime ranked in severity level 1 through 3.

21 ~~(7)~~ (9) Place the juvenile offender under a house arrest program ad-  
22 ministered by the court pursuant to K.S.A. 21-4603b and amendments  
23 thereto.

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

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

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

32 (B) parents of the juvenile offender to participate in parenting classes;  
33 or

34 (C) juvenile offender to successfully participate in a program of ed-  
35 ucation offered by a local board of education including placement in an  
36 alternative educational program approved by a local board of education.

37 (2) Upon entering an order requiring a juvenile offender's parent to  
38 attend counseling sessions or mediation, the court shall give the parent  
39 notice of the order. The notice shall inform the parent of the parent's  
40 right to request a hearing within 10 days after entry of the order and the  
41 parent's right to employ an attorney to represent the parent at the hearing  
42 or, if the parent is financially unable to employ an attorney, the parent's  
43 right to request the court to appoint an attorney to represent the parent.

1 If the parent does not request a hearing within 10 days after entry of the  
2 order, the order shall take effect at that time. If the parent requests a  
3 hearing, the court shall set the matter for hearing and, if requested, shall  
4 appoint an attorney to represent the parent. The expense and fees of the  
5 appointed attorney may be allowed and assessed as provided by K.S.A.  
6 38-1606 and amendments thereto.

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

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

37 (2) In lieu of suspending the driver's license or privilege to operate  
38 a motor vehicle on the highways of this state of any respondent adjudged  
39 to be a juvenile offender, as provided in subsection (c)(1), the court in  
40 which such juvenile offender was adjudged to be a juvenile offender may  
41 enter an order which places conditions on such juvenile offender's priv-  
42 ilege of operating a motor vehicle on the highways of this state, a certified  
43 copy of which such juvenile offender shall be required to carry any time

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

36 (d) Whenever a juvenile offender is placed pursuant to subsection  
37 (a)(1) or (2), the court, unless it finds compelling circumstances which  
38 would render a plan of restitution unworkable, shall order the juvenile  
39 offender to make restitution to persons who sustained loss by reason of  
40 the offense. The restitution shall be made either by payment of an amount  
41 fixed by the court or by working for the persons in order to compensate  
42 for the loss. If the court finds compelling circumstances which would  
43 render a plan of restitution unworkable, the court may order the juvenile

1 offender to perform charitable or social service for organizations perform-  
2 ing services for the community.

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

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

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

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

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

17 (4) Imposition of a restitution order is preferable to imposition of a  
18 fine.

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

23 (f) In addition to or in lieu of any other order authorized by this  
24 section, if a juvenile is adjudged to be a juvenile offender by reason of a  
25 violation of the uniform controlled substances act (K.S.A. 65-4101 *et seq.*  
26 and amendments thereto) or K.S.A. 41-719, 41-727, 65-4152, 65-4153,  
27 65-4154 or 65-4155 or K.S.A. 1995 1996 Supp. 8-1599, and amendments  
28 thereto, the court shall order the juvenile offender to submit to and com-  
29 plete an alcohol and drug evaluation by a community-based alcohol and  
30 drug safety action program certified pursuant to K.S.A. 8-1008 and  
31 amendments thereto and to pay a fee not to exceed the fee established  
32 by that statute for such evaluation, except that such evaluation may be  
33 waived by the court if the court finds that the juvenile offender has suc-  
34 cessfully completed an alcohol and drug evaluation, approved by the com-  
35 munity-based alcohol and drug safety action program, within 12 months  
36 of the offender's arrest on this offense. If such evaluation occurred more  
37 than 12 months after the offender's arrest on this offense, the court shall  
38 order the juvenile offender to resubmit to and complete such evaluation  
39 and program as provided herein. If the court finds that the juvenile of-  
40 fender and those legally liable for the offender's support are indigent, the  
41 fee may be waived. In no event shall the fee be assessed against the  
42 commissioner or the juvenile justice authority. The court may require the  
43 parent or guardian of the juvenile offender to attend such program with

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1 the juvenile offender.

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

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

29 (i) Any order issued by the judge pursuant to this section shall be in  
30 effect immediately upon entry into the judge's minutes.

31 Sec. 58. On and after July 1, 1999, K.S.A. 1995 Supp. 38-1663, as  
32 amended by section 57 of this bill, is hereby amended to read as follows:  
33 38-1663. (a) When a respondent has been adjudged to be a juvenile of-  
34 fender, the judge may select from the following alternatives:

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

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

43 (3) Place the juvenile offender in the custody of a youth residential

Amended in July 1, 1999 to reflect the use of the placement matrix.

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1 facility, subject to the terms and conditions the court orders.

2 (4) Place the juvenile offender in the custody of the commissioner.

3 (5) Impose any appropriate combination of subsections (a)(1) and (2),  
4 subsection (a)(3) or subsection (a)(4) and make other orders directed to  
5 the juvenile offender as the court deems appropriate.

6 (6) Commit the juvenile offender to a sanctions house for a period  
7 no longer than 72 hours.

8 (7) Commit the juvenile offender, if 18 years of age or less than 23  
9 years of age, to the county jail for a period no longer than seven days and  
10 only when the juvenile offender has violated probation.

11 (8) Commit the juvenile offender, if ~~13 years of age or older~~, to a  
12 juvenile correctional facility ~~if the juvenile offender~~.

13 ~~(A) Has previously been adjudged as a juvenile offender under this~~  
14 ~~code; or~~

15 ~~(B) has been adjudicated a juvenile offender as a result of having~~  
16 ~~committed an act which, if done by a person 18 years of age or over,~~  
17 ~~would constitute a class A, B or C felony as defined by the Kansas criminal~~  
18 ~~code or, if done on or after July 1, 1993, would constitute an off-grid~~  
19 ~~crime or a nondrug crime ranked in severity level 1 through 5 or a drug~~  
20 ~~crime ranked in severity level 1 through 3 as provided by the placement~~  
21 ~~matrix established in section 24, and amendments thereto.~~

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

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

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

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

33 (B) parents of the juvenile offender to participate in parenting classes;  
34 or

35 (C) juvenile offender to successfully participate in a program of ed-  
36 ucation offered by a local board of education including placement in an  
37 alternative educational program approved by a local board of education.

38 (2) Upon entering an order requiring a juvenile offender's parent to  
39 attend counseling sessions or mediation, the court shall give the parent  
40 notice of the order. The notice shall inform the parent of the parent's  
41 right to request a hearing within 10 days after entry of the order and the  
42 parent's right to employ an attorney to represent the parent at the hearing  
43 or, if the parent is financially unable to employ an attorney, the parent's

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1 right to request the court to appoint an attorney to represent the parent.  
 2 If the parent does not request a hearing within 10 days after entry of the  
 3 order, the order shall take effect at that time. If the parent requests a  
 4 hearing, the court shall set the matter for hearing and, if requested, shall  
 5 appoint an attorney to represent the parent. The expense and fees of the  
 6 appointed attorney may be allowed and assessed as provided by K.S.A.  
 7 38-1606 and amendments thereto.

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

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

38 (2) In lieu of suspending the driver's license or privilege to operate  
 39 a motor vehicle on the highways of this state of any respondent adjudged  
 40 to be a juvenile offender, as provided in subsection (c)(1), the court in  
 41 which such juvenile offender was adjudged to be a juvenile offender may  
 42 enter an order which places conditions on such juvenile offender's priv-  
 43 ilege of operating a motor vehicle on the highways of this state, a certified

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

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37 (d) Whenever a juvenile offender is placed pursuant to subsection  
38 (a)(1) or (2), the court, unless it finds compelling circumstances which  
39 would render a plan of restitution unworkable, shall order the juvenile  
40 offender to make restitution to persons who sustained loss by reason of  
41 the offense. The restitution shall be made either by payment of an amount  
42 fixed by the court or by working for the persons in order to compensate  
43 for the loss. If the court finds compelling circumstances which would

1 render a plan of restitution unworkable, the court may order the juvenile  
2 offender to perform charitable or social service for organizations perform-  
3 ing services for the community.

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

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

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

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

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

18 (4) Imposition of a restitution order is preferable to imposition of a  
19 fine.

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

24 (f) In addition to or in lieu of any other order authorized by this  
25 section, if a juvenile is adjudged to be a juvenile offender by reason of a  
26 violation of the uniform controlled substances act (K.S.A. 65-4101 *et seq.*  
27 and amendments thereto) or K.S.A. 41-719, 41-727, 65-4152, 65-4153,  
28 65-4154 or 65-4155 or K.S.A. 1996 Supp. 8-1599, and amendments  
29 thereto, the court shall order the juvenile offender to submit to and com-  
30 plete an alcohol and drug evaluation by a community-based alcohol and  
31 drug safety action program certified pursuant to K.S.A. 8-1008 and  
32 amendments thereto and to pay a fee not to exceed the fee established  
33 by that statute for such evaluation, except that such evaluation may be  
34 waived by the court if the court finds that the juvenile offender has suc-  
35 cessfully completed an alcohol and drug evaluation, approved by the com-  
36 munity-based alcohol and drug safety action program, within 12 months  
37 of the offender's arrest on this offense. If such evaluation occurred more  
38 than 12 months after the offender's arrest on this offense, the court shall  
39 order the juvenile offender to resubmit to and complete such evaluation  
40 and program as provided herein. If the court finds that the juvenile of-  
41 fender and those legally liable for the offender's support are indigent, the  
42 fee may be waived. In no event shall the fee be assessed against the  
43 commissioner or the juvenile justice authority. The court may require the

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1 parent or guardian of the juvenile offender to attend such program with  
2 the juvenile offender.

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

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

30 (i) Any order issued by the judge pursuant to this section shall be in  
31 effect immediately upon entry into the judge's minutes.

32 Sec. 59. K.S.A. 1995 Supp. 38-1668, as amended by section 85 of  
33 chapter 229 of the 1996 Session Laws of Kansas, is hereby amended to  
34 read as follows: 38-1668. (a) A parent, guardian or person with whom a  
35 juvenile resides may be ordered by the court to report any probation  
36 violations *or conditional release contract violattons*, aid in enforcing terms  
37 and conditions of probation *or conditional release* or other orders of the  
38 court or any of the above. Any person placed under an order to report  
39 any probation violations *or conditional release contract violattons*, aid in  
40 enforcing terms and conditions of probation *or conditional release* or  
41 other orders of the court or any of the above who fails to do so may be  
42 proceeded against for indirect contempt of court as provided in K.S.A.  
43 20-1204a *et seq.*, and amendments thereto.

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Parent must also report any conditional release contract violation.

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

3 Sec. 60. K.S.A. 1995 Supp. 38-1671, as amended by section 86 of  
4 chapter 229 of the 1996 Session Laws of Kansas, is hereby amended to  
5 read as follows: 38-1671. (a) *Actions by the court.* (1) When a juvenile  
6 offender has been committed to a juvenile correctional facility, the clerk  
7 of the court shall forthwith notify the commissioner of the commitment  
8 and provide the commissioner with a certified copy of the complaint, the  
9 journal entry of the trial and the sentence. The court shall also forward  
10 those items from the social file which could relate to a rehabilitative pro-  
11 gram. If the court wishes to recommend placement of the juvenile of-  
12 fender in a specific juvenile correctional facility, the recommendation  
13 shall be included in the sentence. After the court has received notice of  
14 the juvenile correctional facility designated as provided in subsection (b),  
15 it shall be the duty of the court or the sheriff of the county to deliver the  
16 juvenile offender to the facility at the time designated by the commis-  
17 sioner.

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. 61. K.S.A. 1995 Supp. 38-1673, as amended by section 88 of  
40 chapter 229 of the 1996 Session Laws of Kansas, is hereby amended to  
41 read as follows: 38-1673. (a) When a juvenile offender has satisfactorily  
42 completed the program such offender's term of incarceration at the ju-  
43 venile correctional facility to which the juvenile offender was committed

Clarifies who is to pay the costs of transferring a juvenile offender back to court.

Clarify that the offender is to complete the term of incarceration, not necessarily the program. Subsection (g) states that conditional release programs shall include the treatment options of aftercare.

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1 or placed, the person in charge of the juvenile correctional facility shall  
2 have authority to release the juvenile offender under appropriate condi-  
3 tions and for a specified period of time.

4 (b) At least 15 days prior to releasing a juvenile offender as provided  
5 in subsection (a), the person in charge of the juvenile correctional facility  
6 shall notify the committing court of the date and conditions upon which  
7 it is proposed the juvenile offender is to be released.

8 (c) Upon receipt of the notice required by subsection (b), the court  
9 shall review the proposed conditions of release and may recommend  
10 modifications or additions to the conditions.

11 (d) If, during the conditional release, the juvenile offender is not re-  
12 turning to the county from which committed, the person in charge of the  
13 juvenile correctional facility shall also give notice to the court of the  
14 county in which the juvenile offender is to be residing.

15 (e) To assure compliance with conditions of release from a juvenile  
16 correctional facility, the commissioner shall have the authority to pre-  
17 scribe the manner in which compliance with the conditions shall be su-  
18 pervised. When requested by the commissioner, the appropriate court  
19 may assist in supervising compliance with the conditions of release during  
20 the term of the conditional release. The commissioner may require the  
21 parents or guardians of the juvenile offender to cooperate and participate  
22 with the conditions of release.

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

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

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1 Sec. 62. K.S.A. 38-1674, as amended by section 89 of chapter 229 of  
 2 the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
 3 38-1674. If it is alleged that a juvenile offender who has been conditionally  
 4 released from a juvenile correctional facility has failed to obey the spec-  
 5 ified conditions of release, any ~~social worker or court services~~ officer as-  
 6 signed to supervise compliance with the conditions of release or the  
 7 county or district attorney may file a motion with the committing court  
 8 or the court of the county in which the juvenile offender is residing. The  
 9 motion shall describe the alleged violation and request a hearing thereon.  
 10 The court shall then proceed in the same manner and under the same  
 11 procedure as provided for a hearing on a complaint filed under this code.  
 12 If the court finds that a condition of release has been violated, the court  
 13 may *modify or* impose additional conditions of release that the court con-  
 14 siders appropriate, extend the term of the conditional release or order  
 15 that the juvenile offender be returned to the juvenile correctional facility  
 16 until discharged by the ~~superintendent in charge thereof by the commis-~~  
 17 ~~sioner as determined by the placement matrix and the court's determi-~~  
 18 ~~nation of the specified term of incarceration.~~

Include modification of terms as an option. Commissioner will be allowed to discharge, not the superintendent, based on placement matrix and courts determination.

19 Sec. 63. K.S.A. 1995 Supp. 38-1675, as amended by section 90 of  
 20 chapter 229 of the 1996 Session Laws of Kansas, is hereby amended to  
 21 read as follows: 38-1675. (a) Unless a juvenile is sentenced pursuant to  
 22 an extended jurisdiction juvenile prosecution upon court order, and the  
 23 commissioner transfers the juvenile offender to the custody of the sec-  
 24 retary of corrections, when a juvenile offender has reached the age of 23  
 25 years or has ~~successfully~~ completed the ~~program~~ *prescribed term of in-*  
 26 *carceration* at a juvenile correctional facility together with any conditional  
 27 release following the program, the ~~superintendent in charge of the ju-~~  
 28 ~~venile correctional facility commissioner~~ shall discharge the juvenile of-  
 29 fender from any further obligation under the commitment. The discharge  
 30 shall operate as a full and complete release from any obligations imposed  
 31 on the juvenile offender arising from the offense for which the juvenile  
 32 offender was committed.

Clarify that the offender is to complete the term of incarceration, not necessarily the program. Commissioner will be allowed to discharge, not the superintendent.

33 (b) At least 45 days prior to the discharge of the juvenile offender,  
 34 the juvenile justice authority shall notify the court and the county or  
 35 district attorney of the county where the offender was adjudicated a ju-  
 36 venile offender of the discharge of such juvenile offender, if such juvenile  
 37 offender's offense would have constituted a class A, B or C felony before  
 38 July 1, 1993, or an off-grid felony, a nondrug crime ranked at severity  
 39 level 1, 2, 3, 4 or 5 or a drug crime ranked at severity level 1, 2 or 3, on  
 40 or after July 1, 1993, if committed by an adult. The county or district  
 41 attorney shall give written notice at least 30 days prior to the discharge  
 42 of the juvenile offender to: (1) Any victim of the juvenile offender's crime  
 43 who is alive and whose address is known to the court or, if the victim is

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1 deceased, to the victim's family if the family's address is known to the  
2 court; (2) the local law enforcement agency; and (3) the school district in  
3 which the juvenile offender will be residing if the juvenile is still required  
4 to attend a secondary school. Failure to notify pursuant to this section  
5 shall not be a reason to postpone a discharge. Nothing in this section shall  
6 create a cause of action against the state or county or an employee of the  
7 state or county acting within the scope of the employee's employment as  
8 a result of the failure to notify pursuant to this section.

9 Sec. 64. K.S.A. 1995 Supp. 38-1676, as amended by section 91 of  
10 chapter 229 of the 1996 Session Laws of Kansas, is hereby amended to  
11 read as follows: 38-1676. (a) If a juvenile offender has committed an act  
12 which, if committed by a person 18 years of age or over, would constitute  
13 a class A or B felony, if the offense was committed before July 1, 1993,  
14 or an off-grid felony, a nondrug crime ranked at severity level 1, 2 or 3  
15 or a drug crime ranked at severity level 1 or 2, if the offense was com-  
16 mitted on or after July 1, 1993, and such juvenile offender is to be re-  
17 leased, ~~30~~ 45 days before release, the commissioner shall notify the county  
18 attorney or district attorney, the court, the local law enforcement agency,  
19 and the school district in which the juvenile offender will be residing if  
20 the juvenile is still required to attend a secondary school, of such pending  
21 release. The county attorney, district attorney or the court on its own  
22 motion may file a motion with the court for a hearing to determine if the  
23 juvenile offender should be retained in the custody of the commissioner,  
24 pursuant to K.S.A. 38-1675, and amendments thereto. The court shall fix  
25 a time and place for hearing and shall notify each party of the time and  
26 place.

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

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

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

41 Sec. 65. K.S.A. 1996 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 to be a juvenile

To provide consistent notification times for the juvenile correctional facilities. Alleviates the conflict between this section and K.S.A. 38-1675, previous section.

Conflict resolution.

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

3 (2) "Laboratory confirmation of HIV infection" means positive test  
4 results from a confirmation test approved by the secretary of health and  
5 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 infection" means a test approved by the secretary  
11 of health and environment to detect the etiologic agent for the disease  
12 acquired immune deficiency syndrome.

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 infection and  
21 counseling and shall cause each alleged victim of the offense, if any, to  
22 be notified that testing for HIV infection and counseling is available.

23 (c) If the victim of the offense requests the court to order infectious  
24 disease tests of the alleged offender or if the person charged with the  
25 offense stated to law enforcement officers that the person charged with  
26 the offense has an infectious disease or is infected with an infectious  
27 disease, or used words of like effect, the court shall order the person  
28 charged with the offense to submit to infectious disease tests as defined  
29 in K.S.A. 65-6001 and amendments thereto.

30 (d) For any offense by an adjudicated person which the court deter-  
31 mines, from the facts of the case, involved or was likely to have involved  
32 the transmission of body fluids from one person to another or involved a  
33 sexual act, the court: (1) May order the adjudicated person to submit to  
34 a test for HIV infection; or (2) shall order the adjudicated person to  
35 submit to a test for HIV infection if a victim of the offense, or the parent  
36 or legal guardian of the victim if the victim is a minor, requests the court  
37 to make such order. If a test for HIV infection is ordered under this  
38 subsection, a victim who is an adult shall designate a health care provider  
39 or counselor to receive the information on behalf of the victim. If a victim  
40 is a minor, the parent or legal guardian of the victim shall designate the  
41 health care provider or counselor to receive the information. If the test  
42 results in a negative reaction, the court shall order the adjudicated person  
43 to submit to another test for HIV infection six months after the first test



1 was administered.

2 (e) The results of any test for HIV infection ordered under this sec-  
 3 tion shall be disclosed to the court which ordered the test, to the adju-  
 4 dicated person, or the parent or legal guardian of the adjudicated person,  
 5 and to each person designated under subsection (d) by a victim or by the  
 6 parent or legal guardian of a victim. If a test for HIV infection ordered  
 7 under this section results in a laboratory confirmation of HIV infection,  
 8 the results shall be reported to the secretary of health and environment  
 9 and to: (1) ~~The secretary of social and rehabilitation services commissioner~~  
 10 *of juvenile justice*, in the case of a juvenile offender or a person not ad-  
 11 judicated because of mental disease or defect, for inclusion in such of-  
 12 fender's or person's medical file; or (2) the secretary of corrections, in  
 13 the case of a ~~juvenile felon person under 16 years of age who has been~~  
 14 *convicted as an adult*, for inclusion in such ~~juvenile felon's person's~~ med-  
 15 ical file. The secretary of health and environment shall provide to each  
 16 victim of the crime or sexual act, at the option of such victim, counseling  
 17 regarding the human immunodeficiency virus, testing for HIV infection  
 18 in accordance with K.S.A. 65-6001 *et seq.* and amendments thereto and  
 19 referral for appropriate health care and services.

20 (f) The costs of any counseling and testing provided under subsection  
 21 (e) by the secretary of health and environment shall be paid from amounts  
 22 appropriated to the department of health and environment for that pur-  
 23 pose. The court shall order the adjudicated person to pay restitution to  
 24 the department of health and environment for the costs of any counseling  
 25 provided under this section and the costs of any test ordered or otherwise  
 26 performed under this section.

27 (g) When a court orders an adjudicated person to submit to a test for  
 28 HIV infection under this section, the withdrawal of the blood may be  
 29 performed only by: (1) A person licensed to practice medicine and surgery  
 30 or a person acting under the supervision of any such licensed person; (2)  
 31 a licensed professional nurse or a licensed practical nurse; or (3) a qual-  
 32 ified medical technician. No person authorized by this subsection to with-  
 33 draw blood, no person assisting in the performance of the test for HIV  
 34 infection nor any medical care facility where blood is withdrawn or tested  
 35 that has been ordered by the court to withdraw or test blood shall be  
 36 liable in any civil or criminal action when the test is performed in a rea-  
 37 sonable manner according to generally accepted medical practices.

38 (h) The results of tests or reports, or information therein, obtained  
 39 under this section shall be confidential and shall not be divulged to any  
 40 person not authorized by this section to receive the results or information.  
 41 Any violation of this section is a Class C misdemeanor.

42 Sec. 66. K.S.A. 1996 Supp. 38-16,126 is hereby amended to read as  
 43 follows: 38-16,126. On and after July 1, 1997:

Clarifies that if the juvenile offender commits a new offense, the court may revoke the stay of the adult sentence. Clarifies that DOC will take the juvenile into custody. The juvenile offender will be credited for time served on the juvenile sentence as service on any adult sanction.

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

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

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

8 (b) When it appears that a person convicted as an extended jurisdic-  
9 tion juvenile has violated the conditions of the ~~stayed adult juvenile~~ sen-  
10 tence *or is alleged to have committed a new offense*, the court, without  
11 notice, may revoke the stay and probation and direct that the juvenile  
12 offender be taken into immediate custody *by the department of correc-*  
13 *tions*. The court shall notify the juvenile offender and such juvenile of-  
14 fender's attorney of record, in writing *by personal service, as provided in*  
15 *K.S.A. 60-303, and amendments thereto, or certified mail, return receipt*  
16 *requested, of the reasons alleged to exist for revocation of the stay of*  
17 *execution of the adult sentence. If the juvenile offender challenges the*  
18 *reasons, the court shall hold a hearing on the issue at which the juvenile*  
19 *offender is entitled to be heard and represented by counsel. After the*  
20 *hearing, if the court finds that reasons exist to revoke the stay of execution*  
21 *of the juvenile adult sentence, the court shall treat the juvenile offender*  
22 *as an adult, terminated juvenile jurisdiction and order any of the adult*  
23 *sanctions authorized by K.S.A. 21-4603d, and amendments thereto. Such*  
24 *juvenile offender shall be credited for time served on the juvenile sentence*  
25 *as service on any authorized adult sanction.*

26 (c) Any juvenile who has been sentenced pursuant to subsection (a)  
27 and is serving the juvenile sentence, upon becoming 18 years of age, such  
28 juvenile is allowed a court hearing to review such juvenile sentence. If  
29 such juvenile sentence is continued, the court shall set a date of further  
30 review in no later than 36 months.

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

33 Sec. 67. K.S.A. 1996 Supp. 38-16,128 is hereby amended to read as  
34 follows: 38-16,128. (a) Except as provided in subsection (b), a child's  
35 parent, parents or guardian shall be liable to repay to the commissioner  
36 of juvenile justice, or any other person or entity who provides services  
37 pursuant to a court order issued under the juvenile justice code, any  
38 assistance expended on the child's behalf, regardless of the specific pro-  
39 gram under which the assistance is or has been provided. *Such services*  
40 *shall include, but not be limited to, probation, conditional release, after-*  
41 *care supervision, case management and community corrections. When*  
42 *more than one person is legally obligated to support the child, liability to*  
43 *the commissioner or other person or entity shall be joint and severable.*

Parents shall be liable to repay the commissioner for services rendered including probation, conditional release, aftercare supervision, case management and community corrections.

1 The commissioner or other person or entity shall have the power and  
2 authority to file a civil action in the name of the commissioner or other  
3 person or entity for repayment of the assistance, regardless of the exist-  
4 tence of any other action involving the support of the child.

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

7 (1) Assistance provided on behalf of any person other than the child  
8 of the parent or guardian;

9 (2) assistance provided during a month in which the needs of the  
10 parent or guardian were included in the assistance provided to the child;  
11 or

12 (3) assistance provided during a month in which the parent or guard-  
13 ian has fully complied with the terms of an order of support for the child,  
14 if a court of competent jurisdiction has considered the issue of support.  
15 For the purposes of this subsection, if an order is silent on the issue of  
16 support, it shall not be presumed that the court has considered the issue  
17 of support. Amounts paid for a particular month pursuant to a judgment  
18 under this section shall be credited against the amount accruing for the  
19 same month under any other order of support for the child, up to the  
20 amount of the current support obligation for that month.

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

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

27 Sec. 68. K.S.A. 1996 Supp. 38-1808 is hereby amended to read as  
28 follows: 38-1808. (a) There is hereby established in the state treasury the  
29 family and children investment fund; ~~to be administered by the board of~~  
30 ~~directors of the corporation for change.~~ *On and after July 1, 1997, such*  
31 *fund shall be administered by the Kansas advisory group on juvenile jus-*  
32 *tice and delinquency prevention.*

33 (b) (1) Moneys in the family and children investment fund shall be  
34 expended for: (A) Furthering the purposes of the ~~corporation for change~~  
35 *Kansas advisory group on juvenile justice and delinquency prevention;*  
36 (B) review and evaluation of progress in implementing the ~~blueprint for~~  
37 ~~investment in Kansas children and their families of 1001 special commit-~~  
38 ~~tee on children's initiatives juvenile justice reform act of 1996;~~ (C) pur-  
39 poses which further implementation of a comprehensive, coordinated  
40 ~~strategy juvenile delinquency preventon strategies~~ for investment in Kan-  
41 sas children and their families; and (D) such other purposes as provided  
42 by law.

43 (2) There shall be credited to such fund appropriations, gifts, grants,

Technical amendment needed when Corporation for Change abolished.

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1 contributions, matching funds and participant payments.

2 (3) All expenditures from the fund shall be made in accordance with  
3 appropriation acts upon warrants of the director of accounts and reports  
4 issued pursuant to vouchers approved by the chairperson of the board of  
5 directors of the corporation for change *Kansas advisory group on juvenile*  
6 *justice and delinquency prevention* or a person designated by the chair-  
7 person.

8 (c) (1) There is hereby created the family and children trust account  
9 in the family and children investment fund.

10 (2) Moneys credited to the family and children trust account shall be  
11 used for the following purposes: (A) Matching federal moneys to purchase  
12 services relating to community-based programs for the broad range of  
13 child abuse and neglect prevention *and juvenile delinquency prevention*  
14 activities; (B) providing start-up or expansion grants for community-based  
15 prevention projects for the broad range of child abuse and neglect pre-  
16 vention *and juvenile delinquency prevention* activities; (C) studying and  
17 evaluating community-based prevention projects for the broad range of  
18 child abuse and neglect prevention *and juvenile delinquency prevention*  
19 activities; (D) preparing, publishing, purchasing and disseminating edu-  
20 cational material dealing with the broad range of child abuse and neglect  
21 prevention *and juvenile delinquency prevention* activities; and (E) pay-  
22 ment of the salary and actual and necessary travel expenses of the coor-  
23 dinator employed by the corporation for change for the children and  
24 youth advocacy committee; and (F) payment of administrative costs of  
25 the family and children trust account and of the children and youth ad-  
26 vocacy committee, including amounts provided by subsection (e) of  
27 K.S.A. 38-1805 and amendments thereto. No moneys in the family and  
28 children trust account shall be used for the purpose of providing services  
29 for the voluntary termination of pregnancy.

30 (3) The children and youth advocacy committee of the corporation  
31 for change shall advise the board of directors in detail on the *Kansas*  
32 *advisory group on juvenile justice and delinquency prevention* shall ap-  
33 prove all expenditures of moneys in the family and children trust account.

34 (d) (1) There is hereby created the permanent families account in  
35 the family and children investment fund.

36 (2) Moneys credited to the permanent families account shall be used  
37 for the following purposes: (A) Not more than 12% of the amount cred-  
38 ited to the account during the fiscal year may be used to provide technical  
39 assistance to district courts or local groups wanting to establish a local  
40 citizen review board or a court-appointed special advocate program; in-  
41 cluding but not limited to such staff as necessary to provide such assis-  
42 tance; and to provide services necessary for the administration of such  
43 board or program; including but not limited to grants administration;

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1 accounting, data collection, report writing and training of local citizen  
 2 review board staff; (B) grants to court-appointed special advocate pro-  
 3 grams, upon application approved by the administrative judge of the ju-  
 4 dicial district where the program is located; and (C) grants to district  
 5 courts, upon application of the administrative judge of the judicial district,  
 6 for expenses of establishment, operation and evaluation of local citizen  
 7 review boards in the judicial district, including costs of: (i) Employing  
 8 local citizen review board coordinators and clerical staff; (ii) telephone,  
 9 photocopying and office equipment and supplies for which there are  
 10 shown to be no local funds available; (iii) mileage of staff and board mem-  
 11 bers; and (iv) training staff and board members in a manner consistent  
 12 with the approved community juvenile justice programs pursuant to sec-  
 13 tion 1, and amendments thereto.

14 (e) On or before the 10th of each month, the director of accounts  
 15 and reports shall transfer from the state general fund to the family and  
 16 children investment fund interest earnings based on:

- 17 (1) The average daily balance of moneys in the family and children
- 18 investment fund for the preceding month; and
- 19 (2) the net earnings rate of the pooled money investment portfolio
- 20 for the preceding month.

21 Sec. 69. K.S.A. 1996 Supp. 40-1909 is hereby amended to read as  
 22 follows: 40-1909. (a) Such corporations shall be subject to the provisions  
 23 of the Kansas general corporation code, articles 60 to 74, inclusive, of  
 24 chapter 17 of the Kansas Statutes Annotated, applicable to nonprofit cor-  
 25 porations, to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-  
 26 219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-  
 27 235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252,  
 28 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-  
 29 2,114, 40-2,116, 40-2,117, 40-2a01 to 40-2a19, inclusive, 40-2216 to 40-  
 30 2221, inclusive, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254,  
 31 40-2401 to 40-2421, inclusive, 40-3301 to 40-3313, inclusive, and  
 32 amendments thereto; and to the provisions of K.S.A. 1996 Supp. 40-2,153  
 33 and 40-2,154, and amendments thereto; and K.S.A. 1996 Supp. 40-2,160  
 34 and 40-2,161, and amendments thereto, except as the context otherwise  
 35 requires, and shall not be subject to any other provisions of the insurance  
 36 code except as expressly provided in this act.

37 (b) No policy, agreement, contract or certificate issued by a corpo-  
 38 ration to which this section applies shall contain a provision which ex-  
 39 cludes, limits or otherwise restricts coverage because medicaid benefits  
 40 as permitted by title XIX of the social security act of 1965 are or may be  
 41 available for the same accident or illness.

42 (c) Violation of subsection (b) shall be subject to the penalties pre-  
 43 scribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

Conflict resolution.

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1 Sec. 70. K.S.A. 1996 Supp. 40-19c09 is hereby amended to read as  
 2 follows: 40-19c09. (a) Corporations organized under the nonprofit med-  
 3 ical and hospital service corporation act shall be subject to the provisions  
 4 of the Kansas general corporation code, articles 60 to 74, inclusive, of  
 5 chapter 17 of the Kansas Statutes Annotated, applicable to nonprofit cor-  
 6 porations, to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-  
 7 219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-  
 8 235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252,  
 9 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-  
 10 2,116, 40-2,117, 40-2a01 *et seq.*, 40-2111 to 40-2116, inclusive, 40-2215  
 11 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-2250,  
 12 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive, and 40-3301  
 13 to 40-3313, inclusive, and amendments thereto, and to the provisions of  
 14 K.S.A. 1996 Supp. 40-2,153 and 40-2,154, and amendments thereto, and  
 15 ~~K.S.A. 1996 Supp. 40-2,160 and 40-2,161, and amendments thereto,~~ ex-  
 16 cept as the context otherwise requires, and shall not be subject to any  
 17 other provisions of the insurance code except as expressly provided in  
 18 this act.

Conflict resolution.

19 (b) No policy, agreement, contract or certificate issued by a corpo-  
 20 ration to which this section applies shall contain a provision which ex-  
 21 cludes, limits or otherwise restricts coverage because medicaid benefits  
 22 as permitted by title XIX of the social security act of 1965 are or may be  
 23 available for the same accident or illness.

24 (c) Violation of subsection (b) shall be subject to the penalties pre-  
 25 scribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

26 Sec. 71. K.S.A. 72-978, as amended by section 120 of chapter 229 of  
 27 the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
 28 72-978. (a) (1) In each school year, in accordance with appropriations for  
 29 special education services provided under this act, each school district  
 30 which has provided special education services in compliance with the  
 31 requirements of the state plan and the provisions of this act shall be  
 32 entitled to receive:

Technical amendments with institutions' names being changed.

33 (A) Reimbursement for actual travel allowances paid to special teach-  
 34 ers at not to exceed the rate specified under K.S.A. 75-3203, and amend-  
 35 ments thereto, for each mile actually traveled during the school year in  
 36 connection with duties in providing special education services for excep-  
 37 tional children; such reimbursement shall be computed by the state board  
 38 by ascertaining the actual travel allowances paid to special teachers by  
 39 the school district for the school year and shall be in an amount equal to  
 40 80% of such actual travel allowances;

41 (B) reimbursement in an amount equal to 80% of the actual travel  
 42 expenses incurred for providing transportation for exceptional children to  
 43 special education services; such reimbursement shall not be paid if such

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1 child has been counted in determining the transportation weighting of  
2 the district under the provisions of the school district finance and quality  
3 performance act;

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

9 (D) after subtracting the amounts of reimbursement under (A), (B)  
10 and (C) from the total amount appropriated for special education services  
11 under this act, an amount which bears the same proportion to the re-  
12 maining amount appropriated as the number of full-time equivalent spe-  
13 cial teachers employed by the school district for approved special edu-  
14 cation services bears to the total number of full-time equivalent special  
15 teachers employed by all school districts for approved special education  
16 services.

17 (2) Each special teacher who is a paraprofessional shall be counted  
18 as 2/3 full-time equivalent special teacher.

19 (b) (1) No special teacher in excess of the number of special teachers  
20 necessary to comply with the ratio of special teacher to exceptional chil-  
21 dren prescribed by the state board for the school district shall be counted  
22 in making computations under this section.

23 (2) No time spent by a special teacher in connection with duties per-  
24 formed under a contract entered into by the *Atchison* juvenile correc-  
25 tional facility at *Atchison*, the *Beloit* juvenile correctional facility at *Beloit*,  
26 the *Larned* juvenile correctional facility or the *Topeka* juvenile correc-  
27 tional facility at *Topeka* and a school district for the provision of special  
28 education services by such state institution shall be counted in making  
29 computations under this section.

30 Sec. 72. K.S.A. 1996 Supp. 72-89a02 is hereby amended to read as  
31 follows: 72-89a02. (a) Notwithstanding the provisions of subsection (a) of  
32 K.S.A. 72-8902, and amendments thereto, and subject to the other pro-  
33 visions of this section, each board of education in this state shall adopt a  
34 written policy requiring the expulsion from school for a period of not less  
35 than one year any pupil determined to be in possession of a weapon at  
36 school, on school property, or at a school supervised activity. The policy  
37 shall be filed with the state board of education in such manner as the  
38 state board shall require and at a time to be determined and specified by  
39 the state board.

40 (b) To the extent that the provisions contained in article 89 of chapter  
41 72 of Kansas Statutes Annotated do not conflict with the requirements  
42 of this act, such provisions shall apply to and be incorporated in the policy  
43 required to be adopted under subsection (a).

Technical, amending the statute to include juveniles in the custody of the commissioner.

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1 (c) If a pupil required to be expelled pursuant to a policy adopted  
 2 under subsection (a) is confined in the custody of the secretary of social  
 3 and rehabilitation services, *the commtssioner of juvenile justice* or the  
 4 secretary of corrections as a result of the violation upon which the ex-  
 5 pulsion is to be based, the hearing required under the provisions of article  
 6 89 of chapter 72 of Kansas Statutes Annotated shall be delayed until the  
 7 pupil is released from custody.

8 (d) A hearing afforded a pupil required to be expelled pursuant to a  
 9 policy adopted under subsection (a) shall be conducted by the chief ad-  
 10 ministrative officer or other certificated employee of the school in which  
 11 the pupil is enrolled, by any committee of certificated employees of the  
 12 school in which the pupil is enrolled, or by a hearing officer appointed  
 13 by the board of education of the school in which the pupil is enrolled.

14 (e) The chief administrative officer of the school in which a pupil  
 15 required to be expelled pursuant to a policy adopted under subsection  
 16 (a) is enrolled may modify the expulsion requirement in a manner which  
 17 is consistent with the requirements of federal law. Nothing in this sub-  
 18 section shall be applied or construed in any manner so as to require the  
 19 chief administrative officer of a school to modify the expulsion require-  
 20 ment of a policy adopted by a board of education pursuant to the provi-  
 21 sions of subsection (a).

22 (f) The policy adopted by a board of education under subsection (a)  
 23 shall contain a procedure for the referral of any pupil determined to be  
 24 in possession of a weapon at school, on school property, or at a school  
 25 supervised activity to the appropriate state and local law enforcement  
 26 agencies and, if the pupil is a juvenile, to the secretary of social and  
 27 rehabilitation services *or the commtssioner of juvenile justice*.

28 (g) Each board of education shall prepare an annual report on a form  
 29 prescribed and furnished by the state board of education that contains a  
 30 description of the circumstances surrounding any expulsions imposed on  
 31 pupils pursuant to a policy adopted under subsection (a), including the  
 32 name of the school or schools concerned, the number of pupils expelled,  
 33 and the type of weapons concerned. The report shall be submitted to the  
 34 state board of education in such manner as the state board shall require  
 35 and at a time to be determined and specified by the state board.

36 (h) The provisions of this section do not apply to the possession by  
 37 pupils of weapons at school, on school property, or at a school supervised  
 38 activity if the possession of weapons by pupils is connected with a weapons  
 39 safety course of instruction or a weapons education course approved and  
 40 authorized by the school or if the possession of weapons by pupils is  
 41 specifically authorized in writing by the chief administrative officer of the  
 42 school.

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43 Sec. 73. K.S.A. 1996 Supp. 74-8810 is hereby amended to read as

Conflict resolution.



1 follows: 74-8810. (a) It is a class A nonperson misdemeanor for any person  
2 to have a financial interest, directly or indirectly, in any racetrack facility  
3 within the state of Kansas or in any host facility for a simulcast race  
4 displayed in this state:

5 (1) While such person is a member of the commission or during the  
6 five years immediately following such person's term as member of the  
7 commission; or

8 (2) while such person is an officer, director or member of an organ-  
9 ization licensee, other than a fair association or horsemen's nonprofit or-  
10 ganization, or during the five years immediately following the time such  
11 person is an officer, director or member of such an organization licensee.

12 (b) It is a class A nonperson misdemeanor for any member, employee  
13 or appointee of the commission, including stewards and racing judges, to  
14 knowingly:

15 (1) Participate in the operation of or have a financial interest in any  
16 business which has been issued a concessionaire license, racing or wa-  
17 gering equipment or services license, facility owner license or facility  
18 manager license, or any business which sells goods or services to an or-  
19 ganization licensee;

20 (2) participate directly or indirectly as an owner, owner-trainer or  
21 trainer of a horse or greyhound, or as a jockey of a horse, entered in a  
22 race meeting conducted in this state;

23 (3) place a wager on an entry in a horse or greyhound race conducted  
24 by an organization licensee; or

25 (4) accept any compensation, gift, loan, entertainment, favor or serv-  
26 ice from any licensee, except such suitable facilities and services within a  
27 racetrack facility operated by an organization licensee as may be required  
28 to facilitate the performance of the member's, employee's or appointee's  
29 official duties.

30 (c) It is a class A nonperson misdemeanor for any member, employee  
31 or appointee of the commission, or any spouse, parent, grandparent,  
32 brother, sister, child, son-in-law, daughter-in-law, grandchild, uncle, aunt,  
33 parent-in-law, brother-in-law or sister-in-law thereof, to:

34 (1) Hold any license issued by the commission, except that a steward  
35 or racing judge shall hold an occupation license to be such a steward or  
36 judge; or

37 (2) enter into any business dealing, venture or contract with an owner  
38 or lessee of a racetrack facility in Kansas.

39 (d) It is a class A nonperson misdemeanor for any officer, director or  
40 member of an organization licensee, other than a fair association or hor-  
41 semen's nonprofit organization, to:

42 (1) Receive, for duties performed as an officer or director of such  
43 licensee, any compensation or reimbursement or payment of expenses in

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1 excess of the amounts provided by K.S.A. 75-3223 and amendments  
2 thereto for board members' compensation, mileage and expenses; or  
3 (2) enter into any business dealing, venture or contract with the or-  
4 ganization licensee or, other than in the capacity of an officer or director  
5 of the organization licensee, with a facility owner licensee, facility man-  
6 ager licensee, racing or wagering equipment or services licensee or con-  
7 cessionaire licensee, or with any host facility for a simulcast race displayed  
8 in this state.

9 (e) It is a class A nonperson misdemeanor for any facility owner li-  
10 censee or facility manager licensee, other than a horsemen's association,  
11 or any officer, director, employee, stockholder or shareholder thereof or  
12 any person having an ownership interest therein, to participate directly  
13 or indirectly as an owner, owner-trainer or trainer of a horse or grey-  
14 hound, or as a jockey of a horse, entered in a live race conducted in this  
15 state.

16 (f) It is a class A nonperson misdemeanor for any licensee of the  
17 commission, or any person who is an officer, director, member or em-  
18 ployee of a licensee, to place a wager at a racetrack facility located in  
19 Kansas on an entry in a horse or greyhound race if:

20 (1) The commission has by rules and regulations designated such per-  
21 son's position as a position which could influence the outcome of such  
22 race or the parimutuel wagering thereon; and

23 (2) such race is conducted at or simulcast to the racetrack facility  
24 where the licensee is authorized to engage in licensed activities.

25 (g) It is a class B nonperson misdemeanor for any person to use any  
26 animal or fowl in the training or racing of racing greyhounds.

27 (h) It is a class A nonperson misdemeanor for any person to:

28 (1) Sell a parimutuel ticket or an interest in such a ticket to a person  
29 knowing such person to be under 18 years of age, upon conviction of the  
30 first offense;

31 (2) accept, transmit or deliver, from a person outside a racetrack fa-  
32 cility, anything of value to be wagered in any parimutuel system of wa-  
33 gering within a racetrack facility, upon conviction of the first offense;

34 (3) administer or conspire to administer any drug or medication to a  
35 horse or greyhound within the confines of a racetrack facility in violation  
36 of rules and regulations of the commission, upon conviction of the first  
37 offense;

38 (4) possess or conspire to possess, within the confines of a racetrack  
39 facility, any drug or medication for administration to a horse or greyhound  
40 in violation of rules and regulations of the commission, upon conviction  
41 of the first offense;

42 (5) possess or conspire to possess, within the confines of a racetrack  
43 facility, equipment for administering drugs or medications to horses or

1 greyhounds in violation of rules and regulations of the commission, upon  
2 conviction of the first offense;

3 (6) enter any horse or greyhound in any race knowing such horse or  
4 greyhound to be ineligible to compete in such race pursuant to K.S.A.  
5 74-8812 and amendments thereto; or

6 (7) prepare or cause to be prepared an application for registration of  
7 a horse pursuant to K.S.A. 74-8830 and amendments thereto knowing  
8 that such application contains false information.

9 (i) It is a severity level 8, nonperson felony for any person to:

10 (1) Sell a parimutuel ticket or an interest in such a ticket to a person  
11 knowing such person to be under 18 years of age, upon conviction of the  
12 second or a subsequent offense;

13 (2) accept, transmit or deliver, from any person outside a racetrack  
14 facility, anything of value to be wagered in any parimutuel system of  
15 wagering within a racetrack facility, upon the second or a subsequent  
16 conviction;

17 (3) conduct or assist in the conduct of a horse or greyhound race, or  
18 the display of a simulcast race, where the parimutuel system of wagering  
19 is used or is intended to be used and where no license has been issued  
20 to an organization to conduct or simulcast such race;

21 (4) enter any horse or greyhound in any race conducted by an organ-  
22 ization licensee knowing that the class or grade in which such horse or  
23 greyhound is entered is not the true class or grade or knowing that the  
24 name under which such horse or greyhound is entered is not the name  
25 under which such horse or greyhound has been registered and has pub-  
26 licly performed;

27 (5) use or conspire to use any device, other than an ordinary whip for  
28 horses or a mechanical lure for greyhounds, for the purpose of affecting  
29 the speed of any horse or greyhound at any time during a race conducted  
30 by an organization licensee;

31 (6) possess or conspire to possess, within the confines of a racetrack  
32 facility, any device, other than an ordinary whip for horses or a mechanical  
33 lure for greyhounds, designed or intended to affect the speed of a horse  
34 or greyhound;

35 (7) administer or conspire to administer any drug or medication to a  
36 horse or greyhound within the confines of a racetrack facility in violation  
37 of rules and regulations of the commission, upon conviction of the second  
38 or a subsequent offense;

39 (8) possess or conspire to possess, within the confines of a racetrack  
40 facility, any drug or medication for administration to a horse or greyhound  
41 in violation of rules and regulations of the commission, upon conviction  
42 of the second or a subsequent offense;

43 (9) possess or conspire to possess, within the confines of a racetrack

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1 facility, equipment for administering drugs or medications to horses or  
2 greyhounds in violation of rules and regulations of the commission, upon  
3 conviction of the second or a subsequent offense;

4 (10) sponge the nostrils or windpipe of a horse for the purpose of  
5 stimulating or depressing such horse or affecting its speed at any time  
6 during a race meeting conducted by an organization licensee;

7 (11) alter or attempt to alter the natural outcome of any race con-  
8 ducted by, or any simulcast race displayed by, an organization licensee or  
9 transmit or receive an altered race or delayed broadcast race if parimutuel  
10 wagering is conducted or solicited after off time of the race;

11 (12) influence or attempt to influence, by the payment or promise of  
12 payment of money or other valuable consideration, any person to alter  
13 the natural outcome of any race conducted by, or any simulcast race  
14 displayed by, an organization licensee;

15 (13) influence or attempt to influence any member, employee or ap-  
16 pointee of the commission, by the payment or promise of payment of  
17 money or other valuable consideration, in the performance of any official  
18 duty of that member, employee or appointee;

19 (14) fail to report to the commission or to one of its employees or  
20 appointees knowledge of any violation of this act by another person for  
21 the purpose of stimulating or depressing any horse or greyhound, or af-  
22 fecting its speed, at any time during any race conducted by an organiza-  
23 tion licensee;

24 (15) commit any of the following acts with respect to the prior racing  
25 record, pedigree, identity or ownership of a registered horse or greyhound  
26 in any matter related to the breeding, buying, selling or racing of the  
27 animal: (A) Falsify, conceal or cover up, by any trick, scheme or device,  
28 a material fact; (B) make any false, fictitious or fraudulent statement or  
29 representation; or (C) make or use any false writing or document knowing  
30 that it contains any false, fictitious or fraudulent statement or entry; or

31 (16) pass or attempt to pass, cash or attempt to cash any altered or  
32 forged parimutuel ticket knowing it to have been altered or forged.

33 (j) No person less than 18 years of age shall purchase a parimutuel  
34 ticket or an interest in such a ticket. Any person violating this subsection  
35 shall be subject to adjudication as a juvenile offender pursuant to the  
36 Kansas juvenile offenders justice code.

37 Sec. 74. K.S.A. 1995 Supp. 74-9501, as amended by section 127 of  
38 chapter 229 of the 1996 Session Laws of Kansas, is hereby amended to  
39 read as follows: 74-9501. (a) There is hereby established the Kansas crim-  
40 inal justice coordinating council.

41 (b) The council shall consist of the governor or designee, the chief  
42 justice of the supreme court or designee, the attorney general or designee,  
43 the secretary of corrections, the secretary of social and rehabilitation serv-

————— The council task force ceases to exist, by statute, on June 30, 1995, and therefore the language should be deleted.

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1 ices, the commissioner of juvenile justice and the director of the Kansas  
2 bureau of investigation.

3 (c) The director and all existing employees of the Kansas sentencing  
4 commission shall serve as staff to the Kansas criminal justice coordinating  
5 council, while continuing to serve at the will of the Kansas sentencing  
6 commission pursuant to K.S.A. 74-9103 and amendments thereto in the  
7 performance of its duties as outlined in K.S.A. 74-9101, 74-9106 and 21-  
8 4725 and amendments thereto. The director shall attend all meetings of  
9 the council, be responsible for keeping a record of council meetings,  
10 prepare reports of the council and perform such other duties as directed  
11 by the council.

12 (d) The council shall elect a chairperson and vice-chairperson from  
13 among the members of the council.

14 (e) The council shall:

15 (1) Define and analyze issues and processes in the criminal justice  
16 system, identify alternative solutions and make recommendations for im-  
17 provements;

18 (2) perform such criminal justice studies or tasks as requested by the  
19 governor, the legislature or the chief justice, as deemed appropriate or  
20 feasible by the council;

21 (3) oversee development and management of a criminal justice da-  
22 tabase including assuming the designation and functions of the state sta-  
23 tistical analysis center currently assigned to the Kansas bureau of inves-  
24 tigation pursuant to K.S.A. 75-712a and amendments thereto. All criminal  
25 justice agencies as defined in subsection (c) of K.S.A. 22-4701 and amend-  
26 ments thereto and the department of social and rehabilitation services  
27 shall provide any data or information, including juvenile offender infor-  
28 mation which is requested by the council, in a form and manner estab-  
29 lished by the council, in order to facilitate the development and manage-  
30 ment of the criminal justice council database; and

31 (4) develop and oversee reporting of all criminal justice federal fund-  
32 ing available to the state or local units of government including assuming  
33 the designation and functions of administering the United States bureau  
34 of justice assistance grants currently administered through the law en-  
35 forcement antidrug abuse program of the department of administration.  
36 On the effective date of this act any bureau of justice assistance antidrug  
37 abuse federal fund balances in any account and all unclassified positions  
38 authorized for the law enforcement antidrug abuse program of the de-  
39 partment of administration shall be transferred to and budgeted with the  
40 Kansas sentencing commission.

41 (f) The council shall appoint a standing local government advisory  
42 group to consult and advise the council concerning local government  
43 criminal justice issues and the impact of state criminal justice policy and

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1 decisions on local units of government. The advisory group shall consist  
2 of a sheriff, chief of police, county or district attorney, city governing body  
3 and a county commissioner. Appointees to such advisory group shall serve  
4 without compensation or reimbursement for travel and subsistence or any  
5 other expenses.

6 ~~(g)~~ The council shall form a task force to study and develop policies  
7 and recommendations regarding the juvenile justice system, including  
8 issues of jurisdiction, placement, intake and assessment processes, dis-  
9 positional alternatives, financing strategies, availability of mental health  
10 services and work processes and case loads of social workers and court  
11 services officers, the implications of a youth authority and any other issues  
12 affecting children in need of care as defined in K.S.A. 38-1501 et seq.  
13 and juvenile offenders as defined in K.S.A. 38-1601 et seq. and amend-  
14 ments thereto. The task force shall consist of the following members:  
15 Executive director of the corporation for change or designee, chair of the  
16 advisory committee on juvenile offender programs or designee, commis-  
17 sioner of youth services of the department of social and rehabilitation  
18 services or designee; additional members to be selected by the council  
19 shall include a director of a community corrections program; a juvenile  
20 judge, a prosecuting attorney, an attorney who represents juveniles; a  
21 deputy secretary of corrections; a court services officer, and a sheriff or  
22 chief of police. The corporation for change and the division of youth  
23 services of the state department of social and rehabilitation services shall  
24 each assign one full-time equivalent staff member to the council or, in  
25 the case of the corporation for change, the equivalent of such by more  
26 than one staff member or other, for a period of one year, which staff shall  
27 be approved by the council and perform duties as assigned by and func-  
28 tion under the direction of the executive director of the staff of the coun-  
29 cil, while continuing to be compensated by the agency by which em-  
30 ployed. The task force shall submit a preliminary report to the council,  
31 and the council shall report to the chairperson of the senate and house  
32 committee on judiciary during the interim session of the 1995 legislature.  
33 A final report shall be submitted to the legislature on or before February  
34 1, 1995. The task force shall cease to exist on June 30, 1995.

35 ~~(h)~~ (g) The council shall form a task force to study the consolidation  
36 of probation, parole and community corrections services.

37 ~~(i)~~ (h) When analyzing criminal justice issues and performing criminal  
38 justice studies, the council shall form such task groups as necessary and  
39 shall appoint individuals who appropriately represent law enforcement,  
40 the judiciary, legal profession, state, local, or federal government, the  
41 public, or other professions or groups as determined by the council, to  
42 represent the various aspects of the issue being analyzed or studied.  
43 Members of the legislature may be appointed ex officio members to such

1 task groups. A member of the council shall serve as the chairperson of  
2 each task group appointed by the council. The council may appoint other  
3 members of the council to any task group formed by the council.

4 (†) (i) The council shall review reports submitted by each task group  
5 named by the council and shall submit the report with the council's rec-  
6 ommendations pertaining thereto to the governor, chief justice of the  
7 supreme court, the chief clerk of the house of representatives and the  
8 secretary of the senate.

9 Sec. 75. K.S.A. 1996 Supp. 75-2935 is hereby amended to read as  
10 follows: 75-2935. The civil service of the state of Kansas is hereby divided  
11 into the unclassified and the classified services.

12 (1) The unclassified service comprises positions held by state officers  
13 or employees who are:

14 (a) Chosen by election or appointment to fill an elective office;

15 (b) members of boards and commissions, heads of departments re-  
16 quired by law to be appointed by the governor or by other elective offi-  
17 cers, and the executive or administrative heads of offices, departments,  
18 divisions and institutions specifically established by law;

19 (c) except as otherwise provided under this section, one personal sec-  
20 retary to each elective officer of this state, and in addition thereto, 10  
21 deputies, clerks or employees designated by such elective officer;

22 (d) all employees in the office of the governor;

23 (e) officers and employees of the senate and house of representatives  
24 of the legislature and of the legislative coordinating council and all officers  
25 and employees of the office of revisor of statutes, of the legislative re-  
26 search department, of the division of legislative administrative services,  
27 of the division of post audit and the legislative counsel;

28 (f) chancellor, president, deans, administrative officers, student  
29 health service physicians, pharmacists, teaching and research personnel,  
30 health care employees and student employees in the institutions under  
31 the state board of regents, the executive officer of the board of regents  
32 and the executive officer's employees other than clerical employees, and,  
33 at the discretion of the state board of regents, directors or administrative  
34 officers of departments and divisions of the institution and county exten-  
35 sion agents, except that this subsection (1)(f) shall not be construed to  
36 include the custodial, clerical or maintenance employees, or any employ-  
37 ees performing duties in connection with the business operations of any  
38 such institution, except administrative officers and directors; as used in  
39 this subsection (1)(f), "health care employees" means employees of the  
40 university of Kansas medical center who provide health care services at  
41 the university of Kansas medical center and who are medical technicians  
42 or technologists or respiratory therapists, who are licensed professional  
43 nurses or licensed practical nurses, or who are in job classes which are

Technical amendment needed when Corporation for Change abolished.

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1 designated for this purpose by the chancellor of the university of Kansas  
2 upon a finding by the chancellor that such designation is required for the  
3 university of Kansas medical center to recruit or retain personnel for  
4 positions in the designated job classes; and employees of any institution  
5 under the state board of regents who are medical technologists;  
6 (g) operations, maintenance and security personnel employed to im-  
7 plement agreements entered into by the adjutant general and the federal  
8 national guard bureau, and officers and enlisted persons in the national  
9 guard and the naval militia;  
10 (h) persons engaged in public work for the state but employed by  
11 contractors when the performance of such contract is authorized by the  
12 legislature or other competent authority;  
13 (i) persons temporarily employed or designated by the legislature or  
14 by a legislative committee or commission or other competent authority  
15 to make or conduct a special inquiry, investigation, examination or in-  
16 stallation;  
17 (j) officers and employees in the office of the attorney general and  
18 special counsel to state departments appointed by the attorney general,  
19 except that officers and employees of the division of the Kansas bureau  
20 of investigation shall be in the classified or unclassified service as provided  
21 in K.S.A. 75-711 and amendments thereto;  
22 (k) all employees of courts;  
23 (l) client, patient and inmate help in any state facility or institution;  
24 (m) all attorneys for boards, commissions and departments;  
25 (n) the secretary and assistant secretary of the Kansas state historical  
26 society;  
27 (o) physician specialists, dentists, dental hygienists, pharmacists,  
28 medical technologists and long term care workers employed by the de-  
29 partment of social and rehabilitation services;  
30 (p) physician specialists, dentists and medical technologists employed  
31 by any board, commission or department or by any institution under the  
32 jurisdiction thereof;  
33 (q) student employees enrolled in public institutions of higher learn-  
34 ing;  
35 (r) administrative officers, directors and teaching personnel of the  
36 state board of education and the state department of education and of  
37 any institution under the supervision and control of the state board of  
38 education, except that this subsection (1)(r) shall not be construed to  
39 include the custodial, clerical or maintenance employees, or any employ-  
40 ees performing duties in connection with the business operations of any  
41 such institution, except administrative officers and directors;  
42 (s) all officers and employees in the office of the secretary of state;  
43 (t) one personal secretary and one special assistant to the following;

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1 The secretary of administration, the secretary of aging, the secretary of  
 2 agriculture, the secretary of commerce and housing, the secretary of cor-  
 3 rections, the secretary of health and environment, the superintendent of  
 4 the Kansas highway patrol, the secretary of human resources, the secre-  
 5 tary of revenue, the secretary of social and rehabilitation services, the  
 6 secretary of transportation and the secretary of wildlife and parks;

7 (u) one personal secretary and one special assistant to the chancellor  
 8 and presidents of institutions under the state board of regents;

9 (v) one personal secretary and one special assistant to the executive  
 10 vice chancellor of the university of Kansas medical center;

11 (w) one public information officer and one chief attorney for the fol-  
 12 lowing: The department of administration, the department on aging, the  
 13 department of agriculture, the department of commerce and housing, the  
 14 department of corrections, the department of health and environment,  
 15 the department of human resources, the department of revenue, the de-  
 16 partment of social and rehabilitation services, the department of trans-  
 17 portation and the Kansas department of wildlife and parks;

18 (x) civil service examination monitors;

19 (y) one executive director, one general counsel and one director of  
 20 public affairs and consumer protection in the office of the state corpo-  
 21 ration commission;

22 (z) specifically designated by law as being in the unclassified service;  
 23 and

24 (aa) all officers and employees of Kansas, Inc.; and the Kansas tech-  
 25 nology enterprise corporation and the corporation for change.

26 (2) The classified service comprises all positions now existing or here-  
 27 after created which are not included in the unclassified service. Appoint-  
 28 ments in the classified service shall be made according to merit and fitness  
 29 from eligible pools which so far as practicable shall be competitive. No  
 30 person shall be appointed, promoted, reduced or discharged as an officer,  
 31 clerk, employee or laborer in the classified service in any manner or by  
 32 any means other than those prescribed in the Kansas civil service act and  
 33 the rules adopted in accordance therewith.

34 (3) For positions involving unskilled, or semiskilled duties, the sec-  
 35 retary of administration, as provided by law, shall establish rules and reg-  
 36 ulations concerning certifications, appointments, layoffs and reemploy-  
 37 ment which may be different from the rules and regulations established  
 38 concerning these processes for other positions in the classified service.

39 (4) Officers authorized by law to make appointments to positions in  
 40 the unclassified service, and appointing officers of departments or insti-  
 41 tutions whose employees are exempt from the provisions of the Kansas  
 42 civil service act because of the constitutional status of such departments  
 43 or institutions shall be permitted to make appointments from appropriate

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1 pools of eligibles maintained by the division of personnel services.

2 Sec. 76. K.S.A. 1996 Supp. 75-2935b is hereby amended to read as  
3 follows: 75-2935b. Salaries and other compensation of all persons who  
4 are within the unclassified service of the Kansas civil service act, and  
5 which salaries and other compensation are not fixed by statute, shall be  
6 subject to the approval of the governor and such salaries or other com-  
7 pensation shall not be paid until approved by the governor. The provisions  
8 of this section shall not apply to the salaries and other compensation of  
9 any officer or employee when such salary or other compensation is spe-  
10 cifically prescribed by law, nor to officers and employees of elected state  
11 officials, officers and employees under the jurisdiction of the state board  
12 of regents, the executive secretary and other employees of the Kansas  
13 public employees retirement system that are in the unclassified service  
14 as specified under K.S.A. 74-4908 and amendments thereto, officers and  
15 employees of Kansas, Inc.; and the Kansas technology enterprise corpo-  
16 ration and the Kansas corporation for change, officers and employees  
17 under the jurisdiction of the supreme court, legislative officers and em-  
18 ployees or officers and employees of any agency performing functions  
19 and duties primarily for the legislative branch.

Technical amendment needed when Corporation for Change abolished.

20 Sec. 77. K.S.A. 75-5291 is hereby amended to read as follows: 75-  
21 5291. The secretary of corrections may make grants to counties for the  
22 development, implementation, operation and improvement of commu-  
23 nity correctional services including, but not limited to, restitution pro-  
24 grams, victim services programs, preventive or diversionary correctional  
25 programs, community corrections centers and facilities for the detention  
26 or confinement, care or treatment of adults charged with or convicted of  
27 crime or of juveniles being detained or adjudged to be delinquent, mis-  
28 creant or a juvenile offender except that no community corrections funds  
29 shall be expended by the secretary for the purpose of establishing or  
30 operating a conservation camp as provided by K.S.A. 75-52,127, and  
31 amendments thereto.

Technical, there is no longer a delinquent or miscreant under the code.

32 Sec. 78. K.S.A. 1996 Supp. 75-6102 is hereby amended to read as  
33 follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and amend-  
34 ments thereto, unless the context clearly requires otherwise:

Under the tort claims act, employees of nonprofit programs who contract with the commissioner will be covered.

35 (a) "State" means the state of Kansas and any department or branch  
36 of state government, or any agency, authority, institution or other instru-  
37 mentality thereof.

38 (b) "Municipality" means any county, township, city, school district  
39 or other political or taxing subdivision of the state, or any agency, au-  
40 thority, institution or other instrumentality thereof.

41 (c) "Governmental entity" means state or municipality.

42 (d) "Employee" means any officer, employee, servant or member of  
43 a board, commission, committee, division, department, branch or council

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1 of a governmental entity, including elected or appointed officials and  
2 persons acting on behalf or in service of a governmental entity in any  
3 official capacity, whether with or without compensation and a charitable  
4 health care provider. Employee includes any steward or racing judge ap-  
5 pointed pursuant to K.S.A. 74-8818, and amendments thereto, regardless  
6 of whether the services of such steward or racing judge are rendered  
7 pursuant to contract as an independent contractor, but does not otherwise  
8 include any independent contractor under contract with a governmental  
9 entity except (1) employees of the United States marshal's service en-  
10 gaged in the transportation of inmates on behalf of the secretary of cor-  
11 rections and, (2) a person who is an employee of a nonprofit independent  
12 contractor, other than a municipality, under contract to provide educa-  
13 tional or vocational training to inmates in the custody of the secretary of  
14 corrections and who is engaged in providing such service in an institution  
15 under the control of the secretary of corrections provided that such em-  
16 ployee does not otherwise have coverage for such acts and omissions  
17 within the scope of their employment through a liability insurance con-  
18 tract of such independent contractor; and (3) a person who is an employee  
19 of a nonprofit program, other than a municipality, who has contracted  
20 with the commissioner of juvenile justice or with another nonprofit pro-  
21 gram that has contracted with the commissioner of juvenile justice to  
22 provide a juvenile justice program for juvenile offenders in a judicial dis-  
23 trict provided that such employee does not otherwise have coverage for  
24 such acts and omissions within the scope of their employment through a  
25 liability insurance contract of such nonprofit program. "Employee" also  
26 includes an employee of an indigent health care clinic. "Employee" also  
27 includes former employees for acts and omissions within the scope of  
28 their employment during their former employment with the govern-  
29 mental entity.

30 (e) "Community service work" means public or community service  
31 performed by a person (1) as a result of a contract of diversion entered  
32 into by such person as authorized by law, (2) pursuant to the assignment  
33 of such person by a court to a community corrections program, (3) as a  
34 result of suspension of sentence or as a condition of probation pursuant  
35 to court order, (4) in lieu of a fine imposed by court order or (5) as a  
36 condition of placement ordered by a court pursuant to K.S.A. 38-1663,  
37 and amendments thereto.

38 (f) "Charitable health care provider" means a person licensed by the  
39 state board of healing arts as an exempt licensee or a federally active  
40 licensee, a person issued a limited permit by the state board of healing  
41 arts, a physician's assistant registered by the state board of healing arts or  
42 a health care provider as the term "health care provider" is defined under  
43 K.S.A. 65-4921, and amendments thereto, who has entered into an agree-

1 ment with:

2 (1) The secretary of health and environment under K.S.A. 1996 Supp.  
3 75-6120, and amendments thereto, who, pursuant to such agreement,  
4 gratuitously renders professional services to a person who has provided  
5 information which would reasonably lead the health care provider to  
6 make the good faith assumption that such person meets the definition of  
7 medically indigent person as defined by this section or to a person re-  
8 ceiving medical assistance from the programs operated by the department  
9 of social and rehabilitation services, and who is considered an employee  
10 of the state of Kansas under K.S.A. 1996 Supp. 75-6120, and amendments  
11 thereto; or

12 (2) the secretary of health and environment and who, pursuant to  
13 such agreement, gratuitously renders professional services in conducting  
14 children's immunization programs administered by the secretary; or

15 (3) a local health department or indigent health care clinic, which  
16 renders professional services to medically indigent persons or persons  
17 receiving medical assistance from the programs operated by the depart-  
18 ment of social and rehabilitation services gratuitously or for a fee paid by  
19 the local health department or indigent health care clinic to such provider  
20 and who is considered an employee of the state of Kansas under K.S.A.  
21 1996 Supp. 75-6120 and amendments thereto. Professional services ren-  
22 dered by a provider under this paragraph (3) shall be considered gratui-  
23 tous notwithstanding fees based on income eligibility guidelines charged  
24 by a local health department or indigent health care clinic and notwith-  
25 standing any fee paid by the local health department or indigent health  
26 care clinic to a provider in accordance with this paragraph (3).

27 (g) "Medically indigent person" means a person who lacks resources  
28 to pay for medically necessary health care services and who meets the  
29 eligibility criteria for qualification as a medically indigent person estab-  
30 lished by the secretary of health and environment under K.S.A. 1996  
31 Supp. 75-6120, and amendments thereto.

32 (h) "Indigent health care clinic" means an outpatient medical care  
33 clinic operated on a not-for-profit basis which has a contractual agreement  
34 in effect with the secretary of health and environment to provide health  
35 care services to medically indigent persons.

36 (i) "Local health department" shall have the meaning ascribed to such  
37 term under K.S.A. 65-241 and amendments thereto.

38 Sec. 79. K.S.A. 1996 Supp. 75-6104 is hereby amended to read as  
39 follows: 75-6104. A governmental entity or an employee acting within the  
40 scope of the employee's employment shall not be liable for damages re-  
41 sulting from:

42 (a) Legislative functions, including, but not limited to, the adoption  
43 or failure to adopt any statute, regulation, ordinance or resolution;

Under the tort claims act, employees of nonprofit programs who contract with the commissioner will be covered.

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- 1 (b) judicial function;
- 2 (c) enforcement of or failure to enforce a law, whether valid or in-
- 3 valid, including, but not limited to, any statute, rule and regulation, or-
- 4 dinance or resolution;
- 5 (d) adoption or enforcement of, or failure to adopt or enforce, any
- 6 written personnel policy which protects persons' health or safety unless
- 7 a duty of care, independent of such policy, is owed to the specific indi-
- 8 vidual injured, except that the finder of fact may consider the failure to
- 9 comply with any written personnel policy in determining the question of
- 10 negligence;
- 11 (e) any claim based upon the exercise or performance or the failure
- 12 to exercise or perform a discretionary function or duty on the part of a
- 13 governmental entity or employee, whether or not the discretion is abused
- 14 and regardless of the level of discretion involved;
- 15 (f) the assessment or collection of taxes or special assessments;
- 16 (g) any claim by an employee of a governmental entity arising from
- 17 the tortious conduct of another employee of the same governmental en-
- 18 tity, if such claim is (1) compensable pursuant to the Kansas workers
- 19 compensation act or (2) not compensable pursuant to the Kansas workers
- 20 compensation act because the injured employee was a firemen's relief
- 21 association member who was exempt from such act pursuant to K.S.A.
- 22 44-505d, and amendments thereto, at the time the claim arose;
- 23 (h) the malfunction, destruction or unauthorized removal of any traf-
- 24 fic or road sign, signal or warning device unless it is not corrected by the
- 25 governmental entity responsible within a reasonable time after actual or
- 26 constructive notice of such malfunction, destruction or removal. Nothing
- 27 herein shall give rise to liability arising from the act or omission of any
- 28 governmental entity in placing or removing any of the above signs, signals
- 29 or warning devices when such placement or removal is the result of a
- 30 discretionary act of the governmental entity;
- 31 (i) any claim which is limited or barred by any other law or which is
- 32 for injuries or property damage against an officer, employee or agent
- 33 where the individual is immune from suit or damages;
- 34 (j) any claim based upon emergency management activities, except
- 35 that governmental entities shall be liable for claims to the extent provided
- 36 in article 9 of chapter 48 of the Kansas Statutes Annotated;
- 37 (k) the failure to make an inspection, or making an inadequate or
- 38 negligent inspection, of any property other than the property of the gov-
- 39 ernmental entity, to determine whether the property complies with or
- 40 violates any law or rule and regulation or contains a hazard to public
- 41 health or safety;
- 42 (l) snow or ice conditions or other temporary or natural conditions
- 43 on any public way or other public place due to weather conditions, unless

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1 the condition is affirmatively caused by the negligent act of the govern-  
2 mental entity;

3 (m) the plan or design for the construction of or an improvement to  
4 public property, either in its original construction or any improvement  
5 thereto, if the plan or design is approved in advance of the construction  
6 or improvement by the governing body of the governmental entity or  
7 some other body or employee exercising discretionary authority to give  
8 such approval and if the plan or design was prepared in conformity with  
9 the generally recognized and prevailing standards in existence at the time  
10 such plan or design was prepared;

11 (n) failure to provide, or the method of providing, police or fire pro-  
12 tection;

13 (o) any claim for injuries resulting from the use of any public property  
14 intended or permitted to be used as a park, playground or open area for  
15 recreational purposes, unless the governmental entity or an employee  
16 thereof is guilty of gross and wanton negligence proximately causing such  
17 injury;

18 (p) the natural condition of any unimproved public property of the  
19 governmental entity;

20 (q) any claim for injuries resulting from the use or maintenance of a  
21 public cemetery owned and operated by a municipality or an abandoned  
22 cemetery, title to which has vested in a governmental entity pursuant to  
23 K.S.A. 17-1366 through 17-1368, and amendments thereto, unless the  
24 governmental entity or an employee thereof is guilty of gross and wanton  
25 negligence proximately causing the injury;

26 (r) the existence, in any condition, of a minimum maintenance road,  
27 after being properly so declared and signed as provided in K.S.A. 68-  
28 5,102, and amendments thereto;

29 (s) any claim for damages arising from the performance of community  
30 service work other than damages arising from the operation of a motor  
31 vehicle as defined by K.S.A. 40-3103, and amendments thereto;

32 (t) any claim for damages arising from the operation of vending ma-  
33 chines authorized pursuant to K.S.A. 68-432 or K.S.A. 1996 Supp. 75-  
34 3343a, and amendments thereto; or

35 (u) providing, distributing or selling information from geographic in-  
36 formation systems which includes an entire formula, pattern, compilation,  
37 program, device, method, technique, process, digital database or system  
38 which electronically records, stores, reproduces and manipulates by com-  
39 puter geographic and factual information which has been developed in-  
40 ternally or provided from other sources and compiled for use by a public  
41 agency, either alone or in cooperation with other public or private entities;

42 or

43 (v) any claim arising from providing a juvenile justice program to

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1 *juvenile offenders, if such juvenile justice program has contracted with*  
2 *the commissioner of juvenile justice or with another nonprofit program*  
3 *that has contracted with the commissioner of juvenile justice.*

4 A governmental entity shall not be liable for damages under subsection  
5 (d) of K.S.A. 65-445 and amendments thereto or subsection (e) of K.S.A.  
6 1996 Supp. 65-6804 and amendments thereto for any action of an em-  
7 ployee or former employee who has violated the provisions of subsection  
8 (d) of K.S.A. 65-445 and amendments thereto or subsection (e) of K.S.A.  
9 1996 Supp. 65-6804 and amendments thereto.

10 The enumeration of exceptions to liability in this section shall not be  
11 construed to be exclusive nor as legislative intent to waive immunity from  
12 liability in the performance or failure to perform any other act or function  
13 of a discretionary nature.

14 Sec. 80. K.S.A. 1996 Supp. 75-6801 is hereby amended to read as  
15 follows: 75-6801. (a) As used in this section:

16 (1) "Executive secretary" means the executive secretary of the Kansas  
17 public employees retirement system.

18 (2) "F.T.E. positions" means the number of full time and regular part  
19 time positions equated to full time, excluding seasonal and temporary  
20 positions, paid from appropriations.

21 (3) "Head of the governmental branch" means the governor, in the  
22 case of the executive branch; and the legislative coordinating council, in  
23 the case of the legislative branch.

24 (4) "Retiree" means any person electing to retire pursuant to K.S.A.  
25 74-4914, and amendments thereto, except that "retiree" shall not include  
26 any person who is retiring from a position which provides direct care for  
27 patients at Topeka state hospital, Osawatomie state hospital, Rainbow  
28 mental health facility or Larned state hospital, Kansas neurological insti-  
29 tute, Parsons state hospital and training center, Winfield state hospital  
30 and training center and, university of Kansas medical center, *Atchison*  
31 *juvenile correctional facility, Beloit juvenile correctional facility, Larned*  
32 *juvenile correctional facility and Topeka juvenile correctional facility.*

33 (b) The executive secretary shall provide the head of the govern-  
34 mental branch notice of the name, employing state agency and retirement  
35 date of each retiree retiring after the effective date of this act and such  
36 other information that may be prescribed by the head of the govern-  
37 mental branch.

38 (c) (1) Upon receipt of each notice pursuant to subsection (b) re-  
39 garding a retiree employed by a state agency in the executive branch, the  
40 governor shall direct the secretary of administration to reduce by one the  
41 number of F.T.E. positions authorized for the state agency that employed  
42 the retiree and reduce the expenditure authority of such state agency in  
43 an amount attributable to the amount of unused salary and employer-

Technical amendments with institutions' names being changed.

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1 paid benefits attributable to the retiree's job position.

2 (2) Upon receipt of each notice pursuant to subsection (c) regarding  
3 a retiree employed by a state agency in the legislative branch, the legis-  
4 lative coordinating council shall reduce by one the number of F.T.E.  
5 positions for the state agency that employed the retiree and reduce the  
6 expenditure authority of such state agency in an amount attributable to  
7 the retiree's job position.

8 (d) (1) For reductions made in the executive branch of government,  
9 the governor is authorized to restore or allocate, to any state agency or  
10 agencies within the executive branch, no more than 3/4 of the F.T.E.  
11 positions and expenditure authority reductions made pursuant to subsec-  
12 tion (c)(1), except that, upon request of the governor, the reduced num-  
13 ber of authorized F.T.E. positions and the reduced amount of expendi-  
14 ture authority established under subsection (c)(1) for a state agency in  
15 the executive branch of government may be increased upon approval by  
16 the state finance council acting on this matter which is hereby character-  
17 ized as a matter of legislative delegation and subject to the guidelines  
18 prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto.

19 (2) For reductions made in the legislative branch of government, the  
20 legislative coordinating council is authorized to restore or allocate, to any  
21 state agency or agencies within the legislative branch, no more than 3/4 of  
22 the F.T.E. positions and expenditure authority reductions made pursuant  
23 to subsection (c)(2), except that, upon request of the agency head, the  
24 reduced number of authorized F.T.E. positions and the reduced amount  
25 of expenditure authority established under subsection (c) for a state  
26 agency in the legislative branch of government may be increased upon  
27 approval by the legislative coordinating council.

28 (e) The secretary of administration is authorized to prescribe such  
29 policies and procedures as may be deemed necessary to carry out the  
30 provisions of this section.

31 Sec. 81. K.S.A. 1996 Supp. 75-7001 is hereby amended to read as  
32 follows: 75-7001. On January 1, 1997, the governor shall appoint a com-  
33 missioner of juvenile justice. The commissioner may appoint staff assis-  
34 tants and employees as are necessary to enable the commissioner to carry  
35 out the transfer of powers, duties and functions of the department of  
36 social and rehabilitation services and the secretary of social and rehabil-  
37 itation services concerning juvenile offenders to the juvenile justice au-  
38 thority and the commissioner of juvenile justice. *The provisions of the*  
39 *Kansas governmental operations accountability law apply to the office of*  
40 *the commissioner of juvenile justice and the juvenile justice authority, and*  
41 *the office and authority are subject to audit, review and evaluation under*  
42 *such law.* On and after July 1, 1997, the commissioner of juvenile justice  
43 shall be responsible for the care, custody and control of juvenile offenders

K-GOAL applies to the juvenile justice authority and the commissioner of juvenile justice.

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1 in every way to the powers, duties and functions of the advisory commis-  
2 sion on juvenile offender programs.

3 (b) For the purposes of federal juvenile justice and delinquency pre-  
4 vention act of 1974, as amended, the Kansas youth authority shall act as  
5 the supervisory board.

6 (c) The provisions of subsections (a) and (b) shall expire on June 30,  
7 1997.

8 (d) On and after July 1, 1997, for the purposes of the federal juvenile  
9 justice delinquency prevention act of 1974, as amended, the Kansas youth  
10 authority, as an advisory authority to the commissioner of juvenile justice,  
11 shall act as the supervisory board. (a) There is hereby established the  
12 Kansas advisory group on juvenile justice and delinquency prevention,  
13 for the purposes of the federal juvenile justice and delinquency prevention  
14 act of 1974, as amended.

15 (b) The membership of the Kansas advisory group on juvenile justice  
16 and delinquency prevention shall include the members of the Kansas  
17 youth authority, as appointed pursuant to K.S.A. 75-7009, and amend-  
18 ments thereto, and other members as appointed by the governor. The  
19 governor shall appoint at least eight but not more than 26 additional  
20 members to the advisory group. The additional members shall serve at  
21 the pleasure of the governor.

22 (c) The chairperson and vice-chairperson of the advisory group shall  
23 be appointed by the governor.

24 (d) Each member of the advisory group shall receive compensation,  
25 subsistence allowances, mileage and other expenses as provided for in  
26 K.S.A. 75-3223, and amendments thereto.

27 (e) The advisory group shall participate in the development and re-  
28 view of the juvenile justice plan, review and comment on all juvenile justice  
29 and delinquency prevention grant applications, and shall make recom-  
30 mendations regarding the grant applications.

31 (f) All ex officio members of the Kansas youth authority shall also  
32 serve as ex officio members to the advisory group.

33 (g) The advisory group shall consider applications for and make such  
34 grants from the family and children trust account and the permanent  
35 families account of the family and children investment fund as authorized  
36 by law.

37 (h) The advisory group shall receive reports from local citizen review  
38 boards established pursuant to K.S.A. 38-1812, and amendments thereto,  
39 regarding the status of children under the supervision of the district courts  
40 and regarding systemic barriers to permanence for children, assure that  
41 appropriate data is maintained regularly and compiled at least once a  
42 year by such boards on all cases reviewed and assure that the effectiveness  
43 of such boards is evaluated on an ongoing basis, using, where possible,

1 and shall be in charge of the juvenile justice authority. The juvenile justice  
2 authority shall:

3 (a) Control and manage the operation of the state juvenile correc-  
4 tional facilities;

5 (b) evaluate the rehabilitation of juveniles committed to the authority  
6 and prepare and submit periodic reports to the committing court for the  
7 purposes of:

8 (1) Evaluating the effectiveness of institutional treatment;

9 (2) making recommendations for release where appropriate, and rec-  
10 ommending terms and conditions for release; and

11 (3) reviewing the placement of children and recommending alter-  
12 native placements such as supervised release into the community, out-of-  
13 home placement, or community services work where appropriate with  
14 the approval of the court.

15 (c) consult with the schools and courts of this state on the develop-  
16 ment of programs for the reduction and prevention of delinquency and  
17 the treatment of juvenile offenders;

18 (d) cooperate with other agencies whose services deal with the care  
19 and treatment of juvenile offenders to the end that juvenile offenders  
20 may wherever possible be assisted to a successful adjustment outside of  
21 institutional care;

22 (e) advise local, state and federal officials, public and private agencies,  
23 and lay groups on the needs for and possible methods of the reduction  
24 and prevention of delinquency, and the treatment of juvenile offenders;

25 (f) assemble and distribute information relating to delinquency and  
26 report on studies relating to community conditions which affect the prob-  
27 lem of delinquency;

28 (g) assist any community within the state by conducting a compre-  
29 hensive survey of the community's available public and private resources,  
30 and recommend methods of establishing a community program for com-  
31 bating juvenile delinquency and crime, but no such survey shall be con-  
32 ducted unless local individuals and groups request it through their local  
33 authorities, and no such request shall be interpreted as binding the com-  
34 munity to following the recommendations made as a result of the request;  
35 and

36 (h) be responsible for directing state moneys to providers in local  
37 communities of alternative placements such as supervised release into the  
38 community, out-of-home placement, community services work or other  
39 community-based service; provide assistance to such providers; and eval-  
40 uate and monitor the performance of such providers relating to the pro-  
41 vision of services.

42 Sec. 82. K.S.A. 1996 Supp. 75-7007 is hereby amended to read as  
43 follows: 75-7007. ~~(a) The Kansas youth authority shall be the successor~~

Creating the Kansas Advisory Group on Juvenile Justice and Delinquency  
Prevention.

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1 *random selection of local citizen review boards and cases for the evalua-*  
 2 *tion and including client outcome data to determine effectiveness.*

3 Sec. 83. K.S.A. 1996 Supp. 75-7008 is hereby amended to read as  
 4 follows: 75-7008. (a) There is hereby established the Kansas youth au-  
 5 thority. The authority shall develop confinement and alternate disposition  
 6 policies for juvenile offenders. The authority shall specifically look at con-  
 7 finement as well as diversion, fines, restitution, community service, stan-  
 8 dard probation, intensive supervision, house arrest programs, electronic  
 9 monitoring, structured school, day reporting centers, community residen-  
 10 tial care, treatment centers and sanctions house.

11 (b) The Kansas youth authority shall develop and submit its interim  
 12 report and statutory proposals to the legislature on or before November  
 13 1, 1995. A transitional plan shall be submitted on the commencement of  
 14 the 1997 legislative session. Such transitional plan shall include a plan for  
 15 the transfer of the powers, duties and functions of the department of  
 16 social and rehabilitation services and other state agencies concerning ju-  
 17 venile offenders to the juvenile justice authority and the commissioner of  
 18 juvenile justice; a plan for a juvenile offender placement matrix to pro-  
 19 mote uniformity throughout the system; a plan for aftercare services upon  
 20 release from a juvenile correctional facility including the development of  
 21 discharge plans which will coordinate the efficient delivery of services  
 22 including educational services; a plan in coordination with the department  
 23 of social and rehabilitation services to consolidate the functions of juvenile  
 24 offenders and children in need of care intake and assessment services to  
 25 provide a statewide plan for coordinating services on a 24-hour a day basis;  
 26 a plan to recommend how all juveniles in police custody will be processed  
 27 through the juvenile intake and assessment system; and a plan to facilitate  
 28 the transfer from a state-based juvenile justice system to a community-  
 29 based juvenile justice system. The plan for transition to a more commu-  
 30 nity-based juvenile justice system shall be based on judicial districts and  
 31 shall specifically address the governance, financial needs, compliance  
 32 requirements and accountability of the system. The Kansas youth au-  
 33 thority may contract with a consultant to provide assistance with such  
 34 transitional plans.

35 (c) On July 1, 1997, the Kansas youth authority shall become an ad-  
 36 visory authority to the commissioner of juvenile justice.

37 (d) The Kansas youth authority shall review programs and services  
 38 provided by community corrections programs pursuant to the community  
 39 corrections act. The Kansas youth authority shall review the local juvenile  
 40 intake and assessment programs. The Kansas youth authority may study  
 41 issues concerning children in need of care.

42 (e) The Kansas department of social and rehabilitation services, in  
 43 cooperation with the Kansas youth authority, shall coordinate all state

There were two funds created in 1996. This section abolishes the Kansas endowment for youth fund and transfers any funds in it to the Kansas endowment for youth trust fund.

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1 efforts to prevent alcohol and drug abuse by juveniles.  
 2 (f) The Kansas department of social and rehabilitation services, in  
 3 cooperation with the Kansas youth authority, shall develop a comprehen-  
 4 sive strategy for prevention and early intervention, including, but not  
 5 limited to, a program to assist each community in performing a compre-  
 6 hensive risk assessment.

7 (g) Annually, the Kansas youth authority shall recognize:

8 (1) No more than six individuals or organizations that have made sig-  
 9 nificant and positive contributions to Kansas youth; and

10 (2) one male and one female Kansas youth for significant and positive  
 11 contributions to the eradication of youth risk factors in such youth's com-  
 12 munity.

13 (h) The Kansas youth authority may appoint an advisory youth coun-  
 14 cil. Such council shall advise the authority on policy recommendations  
 15 and programs. Members of the youth council shall meet and have such  
 16 duties as determined by the Kansas youth authority.

17 (i) ~~There is hereby created the Kansas endowment for youth fund in~~  
 18 ~~the state treasury. All moneys credited to the Kansas endowment for~~  
 19 ~~youth fund shall be used to fund prevention programs for youths trans-~~  
 20 ~~ferred to the Kansas endowment for youth trust fund, established in K.S.A.~~  
 21 ~~75-7021, and amendments thereto. The Kansas youth authority shall ac-~~  
 22 ~~cept grants and donations, both public and private, to be credited to the~~  
 23 ~~fund. All expenditures from the Kansas endowment for youth fund shall~~  
 24 ~~be made in accordance with appropriation acts upon warrants of the di-~~  
 25 ~~rector of accounts and reports issued pursuant to vouchers approved by~~  
 26 ~~the chairperson of the Kansas youth authority or by a person or persons~~  
 27 ~~designated by such chairperson. The Kansas youth authority may contract~~  
 28 ~~with a consultant to determine the elements of a successful endowment~~  
 29 ~~program. On the 10th of each month, the director of accounts and reports~~  
 30 ~~shall transfer from the state general fund to the Kansas endowment for~~  
 31 ~~youth fund, the amount of money certified by the pooled money invest-~~  
 32 ~~ment board in accordance with this subsection. Prior to the 10th of each~~  
 33 ~~month, the pooled money investment board shall certify to the director~~  
 34 ~~of accounts and reports the amount of money equal to the proportionate~~  
 35 ~~amount of all the interest credited to the state general fund for the pre-~~  
 36 ~~ceding period of time specified under this subsection, pursuant to K.S.A.~~  
 37 ~~75-4210a, and amendments thereto, that is attributable to money in the~~  
 38 ~~Kansas endowment for youth fund. Such amount of money shall be de-~~  
 39 ~~termined by the pooled money investment board based on:~~

40 (1) The average daily balance of moneys in the Kansas endowment  
 41 for youth fund during the period of time specified under this subsection  
 42 as certified to the board by the director of accounts and reports; and

43 (2) the average interest rate on repurchase agreements of less than

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1 30 days' duration entered into by the pooled money investment board for  
2 that period of time. On or before the fifth day of the month for the  
3 preceding month, the director of accounts and reports shall certify to the  
4 pooled money investment board the average daily balance of moneys in  
5 the Kansas endowment for youth fund for the period of time specified  
6 under this subsection.

7 Sec. 84. K.S.A. 1996 Supp. 75-7009 is hereby amended to read as  
8 follows: 75-7009. (a) The Kansas youth authority shall consist of seven  
9 members. The governor shall appoint one member from each congress-  
10 sional district and three members from the state at large. The governor  
11 shall appoint a chairperson.

12 (b) The authority shall meet upon call of its chairperson as is neces-  
13 sary to carry out its duties under this act.

14 (c) Of the members of the board appointed in the year 1999, three  
15 members shall have terms ending on the second Monday in January 2001  
16 and four members shall have terms ending on the second Monday in  
17 January 2003. Each member appointed in 1995 and subsequent to 1999  
18 shall be appointed for a four-year term and shall continue in office until  
19 a successor is appointed and qualified. Members shall be eligible for reap-  
20 pointment.

21 (d) Each member of the authority shall receive compensation, sub-  
22 sistence allowances, mileage and other expenses as provided for in K.S.A.  
23 75-3223, and amendments thereto.

24 (e) The attorney general or the attorney general's designee, the chief  
25 justice of the supreme court or the chief justice's designee and the com-  
26 missioner of education or the commissioner's designee shall serve as ex  
27 officio members of the authority. The governor may appoint other mem-  
28 bers to serve as ex officio members. Such ex officio members appointed  
29 by the governor shall serve at the pleasure of the governor. *The Kansas*  
30 *league of municipalities and the Kansas association of counties each may*  
31 *appoint a member to serve as an ex officio member.* All ex officio members  
32 of the commission shall be nonvoting members.

33 Sec. 85. K.S.A. 1996 Supp. 75-7021 is hereby amended to read as  
34 follows: 75-7021. (a) There is hereby created in the state treasury the  
35 Kansas endowment for youth trust fund. Money credited to the fund  
36 pursuant to K.S.A. 20-367 and amendments thereto or by any other lawful  
37 means shall be used solely for the purpose of making grants to further  
38 the purpose of juvenile justice reform, including rational prevention pro-  
39 grams and programs for treatment and rehabilitation of juveniles and to  
40 further the partnership between state and local communities. Such treat-  
41 ment and rehabilitation programs should aim to combine accountability  
42 and sanctions with increasingly intensive treatment and rehabilitation  
43 services with an aim to provide greater public safety and provide inter-

— A representative of the Kansas league of municipalities and the Kansas association of counties shall serve as an ex officio member of the Kansas Youth Authority.

— Technical amendment to reflect current language concerning interest earned.

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1 vention that will be uniform and consistent.

2 (b) All expenditures from the Kansas endowment for youth trust fund  
3 shall be made in accordance with appropriations acts upon warrants of  
4 the director of accounts and reports issued pursuant to vouchers approved  
5 by the commissioner of juvenile justice or by a person or persons desig-  
6 nated by the commissioner.

7 (c) The commissioner of juvenile justice may apply for, receive and  
8 accept money from any source for the purposes for which money in the  
9 Kansas endowment for youth trust fund may be expended. Upon receipt  
10 of any such money, the commissioner shall remit the entire amount at  
11 least monthly to the state treasurer, who shall deposit it in the state treas-  
12 ury and credit it to the Kansas endowment for youth trust fund.

13 (d) Grants made to programs pursuant to this section shall be based  
14 on the number of persons to be served and such other requirements as  
15 may be established by the Kansas youth authority in guidelines estab-  
16 lished and promulgated to regulate grants made under authority of this  
17 section. The guidelines may include requirements for grant applications,  
18 organizational characteristics, reporting and auditing criteria and such  
19 other standards for eligibility and accountability as are deemed advisable  
20 by the Kansas youth authority.

21 (e) *On or before* the 10th of each month, the director of accounts and  
22 reports shall transfer from the state general fund to the Kansas endow-  
23 ment for youth trust fund, ~~the amount of money certified by the pooled~~  
24 ~~money investment board in accordance with this subsection. Prior to the~~  
25 ~~10th of each month, the pooled money investment board shall certify to~~  
26 ~~the director of accounts and reports the amount of money equal to the~~  
27 ~~proportionate amount of all the interest credited to the state general fund~~  
28 ~~for the preceding period of time specified under this subsection, pursuant~~  
29 ~~to K.S.A. 75-4210a, and amendments thereto, that is attributable to~~  
30 ~~money in the Kansas endowment for youth trust fund. Such amount of~~  
31 ~~money shall be determined by the pooled money investment board in-~~  
32 ~~terest earnings based on:~~

33 (1) The average daily balance of moneys in the Kansas endowment  
34 for youth trust fund during the period of time specified under this sub-  
35 section as certified to the board by the director of accounts and reports  
36 for the preceding month; and

37 (2) the average interest rate on repurchase agreements of less than  
38 30 days' duration entered into by the pooled money investment board for  
39 that period of time. On or before the fifth day of the month for the  
40 preceding month, the director of accounts and reports shall certify to the  
41 pooled money investment board the average daily balance of moneys in  
42 the Kansas endowment for youth trust fund for the period of time spec-  
43 ified under this subsection *net earnings rate of the pooled money invest-*

1 *ment portfolio for the preceding month.*

2 Sec. 86. K.S.A. 1996 Supp. 75-7023 is hereby amended to read as  
3 follows: 75-7023. (a) The supreme court through administrative orders  
4 shall provide for the establishment of a juvenile intake and assessment  
5 system and for the establishment and operation of juvenile intake and  
6 assessment programs in each judicial district. On and after July 1, 1997,  
7 the secretary of social and rehabilitation services may contract with the  
8 commissioner of juvenile justice to provide for the juvenile intake and  
9 assessment system and programs for children in need of care. On and  
10 after July 1, 1997, the commissioner of juvenile justice shall promulgate  
11 rules and regulations for the juvenile intake and assessment system and  
12 programs concerning juvenile offenders.

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

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

28 (d) In addition to any other information required by the supreme  
29 court administrative order, the secretary, the commissioner or by the  
30 district court of such district, the juvenile intake and assessment worker  
31 shall collect the following information:

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

34 (2) criminal history, including indications of criminal gang involve-  
35 ment;

36 (3) abuse history;

37 (4) substance abuse history;

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

39 (6) educational history;

40 (7) medical history; and

41 (8) family history.

42 (e) After completion of the intake and assessment process for such  
43 child, the intake and assessment worker may:

Requested by a district court judge. The juvenile could be released to an appropriate adult if it would be in the best interest of the child.

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1 (1) Release the child to the custody of the child's parent or, other  
2 legal guardian or another appropriate adult if the intake and assessment  
3 worker believes that it would be in the best interest of the child and it  
4 would not be harmful to the child to do so.

5 (2) Conditionally release the child to the child's parent or, other legal  
6 guardian or another appropriate adult if the intake and assessment worker  
7 believes that if the conditions are met, it would be in the child's best  
8 interest to release the child to such child's parent or other legal guardian;  
9 and the intake and assessment worker has reason to believe that it might  
10 be harmful to the child to release the child to such child's parents or other  
11 legal guardian without imposing the conditions. The conditions may in-  
12 clude, but not be limited to:

- 13 (A) Participation of the child in counseling;
- 14 (B) participation of members of the child's family in counseling;
- 15 (C) participation by the child, members of the child's family and other  
16 relevant persons in mediation;
- 17 (D) provision of inpatient treatment for the child;
- 18 (E) referral of the child and the child's family to the secretary of social  
19 and rehabilitation services for services and the agreement of the child and  
20 family to accept and participate in the services offered;
- 21 (F) referral of the child and the child's family to available community  
22 resources or services and the agreement of the child and family to accept  
23 and ~~participation~~ participate in the services offered;
- 24 (G) requiring the child and members of the child's family to enter  
25 into a behavioral contract which may provide for regular school atten-  
26 dance among other requirements; or
- 27 (H) any special conditions necessary to protect the child from future  
28 abuse or neglect.

29 (3) Deliver the child to a shelter facility or a licensed attendant care  
30 center along with the law enforcement officer's written application. The  
31 shelter facility or licensed attendant care facility shall then have custody  
32 as if the child had been directly delivered to the facility by the law en-  
33 forcement officer pursuant to K.S.A. 3S-1528, and amendments thereto.

34 (4) Refer the child to the county or district attorney for appropriate  
35 proceedings to be filed or refer the child and family to the secretary of  
36 social and rehabilitation services for investigations in regard to the alle-  
37 gations.

38 Sec. 87. K.S.A. 1996 Supp. 75-7024 is hereby amended to read as  
39 follows: 75-7024. On and after July 1, 1997, in addition to other powers  
40 and duties provided by law, in administering the provisions of the juvenile  
41 justice code, the commissioner of juvenile justice shall:

- 42 (a) Establish the following divisions in the juvenile justice authority:
- 43 (1) Operations. The commissioner shall ~~oversee~~ operate the juvenile

The commissioner will operate not oversee the juvenile intake and assessment system. The commissioner will further provide staff support to the KYA; designate in each judicial district an entity who is responsible for juvenile justice field services; oversee the construction of a secure juvenile correctional facility; and monitor placement trends and minority confinement.

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1 intake and assessment system as it relates to the juvenile offender; provide  
2 technical assistance and help facilitate community collaboration; license  
3 juvenile correctional facilities, programs and providers; assist in coordi-  
4 nating a statewide system of community based service providers; establish  
5 pilot projects for community based service providers; and operate the  
6 juvenile correctional facilities.

7 (2) Research. The commissioner shall generate, analyze and utilize  
8 data to review existing programs and identify effective prevention pro-  
9 grams; to develop new program initiatives and restructure existing pro-  
10 grams; and to assist communities in risk assessment and effective resource  
11 utilization.

12 (3) Contracts. The commissioner shall secure the services of direct  
13 providers by contracting with such providers, which may include non-  
14 profit, private or public agencies, to provide functions and services  
15 needed to operate the juvenile justice authority. The commissioner shall  
16 contract with local service providers, when available, to provide 24-hour-  
17 a-day intake and assessment services. Nothing provided for herein shall  
18 prohibit local municipalities, through interlocal agreements, from corrob-  
19 orating with and participating in the intake and assessment services es-  
20 tablished in K.S.A. 1996 Supp. 75-7023 and amendments thereto.

21 (4) Performance audit. The commissioner shall randomly audit con-  
22 tracts to determine that service providers are performing as required pur-  
23 suant to the contract.

24 (b) Adopt rules and regulations necessary for the administration of  
25 this act.

26 (c) Administer all state and federal funds appropriated to the juvenile  
27 justice authority and may coordinate with any other agency within the  
28 executive branch expending funds appropriated for juvenile justice.

29 (d) Administer the development and implementation of a juvenile  
30 justice information system.

31 (e) Administer the transition to and implementation of juvenile jus-  
32 tice system reforms.

33 (i) Coordinate with the judicial branch of state government any duties  
34 and functions which effect the juvenile justice authority.

35 (g) Serve as a resource to the legislature and other state policymakers.

36 (h) Make and enter into all contracts and agreements and do all other  
37 acts and things necessary or incidental to the performance of functions  
38 and duties and the execution of powers under this act.

39 (i) Accept custody of juvenile offenders so placed by the court.

40 (j) Assign juvenile offenders placed in the commissioner's custody to  
41 juvenile correctional facilities based on information collected by the re-  
42 ception and diagnostic evaluation, intake and assessment report, pursuant  
43 to K.S.A. 1996 Supp. 75-7023 and the predispositional investigation re-

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1 port, pursuant to K.S.A. 38-1661, and amendments thereto.

2 (k) Establish and utilize a reception and diagnostic evaluation for all  
3 juvenile offenders to be evaluated prior to placement in a juvenile cor-  
4 rectional facility.

5 (l) Assist the judicial districts in establishing community based place-  
6 ment options, ~~juvenile community corrections~~ *correctional* services and  
7 aftercare transition services for juvenile offenders.

8 (m) Review, evaluate and restructure the programmatic mission and  
9 goals of the juvenile correctional facilities to accommodate greater spe-  
10 cialization for each facility.

11 (n) Adopt rules and regulations as are necessary to encourage the  
12 sharing of information between individuals and agencies who are involved  
13 with the juvenile.

14 (o) *Provide staff support to the Kansas youth authority.*

15 (p) *Designate in each judicial district an entity which shall be re-  
16 sponsible for juvenile justice field services. The commissioner shall con-  
17 tract with such entity and provide grants to fund such field services.*

18 (q) *To oversee the construction of a secure juvenile correctional fa-  
19 cility. Such facility shall be designed to house violent, chronic and serious  
20 juvenile offenders; and to accommodate other services and functions, such  
21 as detention centers, intake and assessment centers and reception and  
22 diagnostic services.*

23 (r) *Monitor placement trends and minority confinement.*

24 Sec. 88. K.S.A. 1996 Supp. 75-7025 is hereby amended to read as  
25 follows: 75-7025. On and after July 1, 1997:

26 (a) The commissioner of juvenile justice may establish, maintain and  
27 improve throughout the state, within the limits of funds appropriated  
28 therefor and any grants or funds received from federal agencies and other  
29 sources, regional youth care, evaluation and rehabilitation facilities, not  
30 to exceed 10 in number, for the purpose of: (1) Providing local authorities  
31 with facilities for the detention and rehabilitation of juvenile offenders,  
32 including, but not limited to juvenile offenders who are 16 and 17 years  
33 of age; (2) providing local authorities with facilities for the temporary  
34 shelter and detention of juveniles pending any examination or study to  
35 be made of the juveniles or prior to the disposition of such juveniles  
36 pursuant to the Kansas code for care of children or the Kansas juvenile  
37 justice code; and (3) providing short-term treatment and rehabilitation  
38 service for juveniles.

39 (b) Each such facility shall be staffed by a superintendent, ~~matron~~  
40 and such other officers and employees considered necessary by the com-  
41 missioner for the proper management and operation of the center. The  
42 commissioner shall appoint the superintendent of each regional facility  
43 and fix the superintendent's compensation with the approval of the gov-

All heads of institutions are superintendents.

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1 ernor. Each superintendent shall appoint all other officers and employees  
2 for such regional facility, subject to the approval of the commissioner.

3 (c) The commissioner may adopt rules and regulations relating to the  
4 operation and management of any regional youth care facility established  
5 pursuant to the provisions of K.S.A. 1996 Supp. 75-7025 through 75-7028,  
6 and amendments thereto.

7 Sec. 89. K.S.A. 1996 Supp. 75-7026 is hereby amended to read as  
8 follows: 75-7026. On and after July 1, 1997:

9 (a) , within the limits of funds appropriated therefor and any grants  
10 or funds received from any agency of the United States government, and  
11 other sources, the commissioner of juvenile justice may establish, main-  
12 tain and improve throughout the state supplemental youth care facilities  
13 for children who are delinquent, miscreant or juvenile offenders and who  
14 are confined in institutions, for the purpose of providing treatment and  
15 rehabilitation services for the children. All children placed in supplemen-  
16 tal youth care facilities shall be subject to laws applicable to juvenile of-  
17 fenders who are placed in any other juvenile correctional facility, as de-  
18 fined by K.S.A. 38-1602, and amendments thereto. The commissioner  
19 may adopt rules and regulations relating to the operation and manage-  
20 ment of any supplemental youth care facility established pursuant to this  
21 section.

22 (b) ~~The supplemental youth care facility or youth rehabilitation cen-~~  
23 ~~ter established at Osawatomie state hospital shall be known as the juvenile~~  
24 ~~correctional facility at Osawatomie. Any reference to this supplemental~~  
25 ~~youth care facility, youth rehabilitation center or the youth center at Os-~~  
26 ~~awatomie, or words of like effect, in any statute, contract or other docu-~~  
27 ~~ment shall be deemed to apply to the juvenile correctional facility at~~  
28 ~~Osawatomie. The juvenile correctional facility at Osawatomie shall be~~  
29 ~~under the supervision and control of the commissioner in accordance with~~  
30 ~~K.S.A. 1996 Supp. 76-3203. All juvenile offenders placed in the juvenile~~  
31 ~~correctional facility at Osawatomie shall be subject to laws applicable to~~  
32 ~~juvenile offenders placed in any other juvenile correctional facility, as~~  
33 ~~defined by K.S.A. 38-1602, and amendments thereto.~~

34 (c) ~~The supplemental youth care facility or youth rehabilitation center~~  
35 ~~established at Larned state hospital shall be known as the juvenile cor-~~  
36 ~~rectional facility at Larned. Any reference to this supplemental youth care~~  
37 ~~facility, youth rehabilitation center, the youth center at Larned, or words~~  
38 ~~of like effect, in any statute, contract or other document shall be deemed~~  
39 ~~to apply to the juvenile correctional facility at Larned. The juvenile cor-~~  
40 ~~rectional facility at Larned shall be under the supervision and control of~~  
41 ~~the commissioner in accordance with K.S.A. 1996 Supp. 76-3203. All~~  
42 ~~juvenile offenders placed in the juvenile correctional facility at Larned~~  
43 ~~shall be subject to laws applicable to any other juvenile correctional fa-~~

Technical, there is no longer a delinquent or miscreant under the code. Also, the Osawatomie facility is no longer in existence and the Larned juvenile correctional facility is not a supplemental youth care facility.

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1 ~~ility, as defined by K.S.A. 38-1602, and amendments thereto.~~

2 Sec. 90. K.S.A. 1996 Supp. 75-7028 is hereby amended to read as  
3 follows: 75-7028. On and after July 1, 1997:

4 (a) The commissioner of juvenile justice is hereby authorized and  
5 empowered to establish and maintain at any institution, as defined in  
6 K.S.A. 38-1602, and amendments thereto, residential care facilities for  
7 children and youth committed ~~or relinquished~~ to the commissioner.

8 (b) Each residential care facility established under this section shall  
9 be under the supervision and administration of the commissioner. The  
10 commissioner shall appoint all employees of the residential care facility  
11 who shall be in the classified service under the Kansas civil service act.

12 (c) The commissioner is hereby authorized to adopt all necessary  
13 rules and regulations relating to the operation and management of any  
14 residential care facility established pursuant to the provisions of K.S.A.  
15 1996 Supp. 75-7025 through 75-7028, *and amendments thereto.*

16 Sec. 91. K.S.A. 1996 Supp. 76-6b04 is hereby amended to read as  
17 follows: 76-6b04. (a) There is hereby levied an annual permanent state  
18 tax upon all tangible property in this state which is subject to ad valorem  
19 taxation. The tax levy shall be .25 mill in the year 1990 and .5 mill in the  
20 year 1991 and each year thereafter until changed by statute. The tax levy  
21 shall be in addition to all other state tax levies authorized by law. The tax  
22 levy shall be for the use and benefit of state institutions caring for persons  
23 who are mentally ill, retarded, visually handicapped, with a handicapping  
24 hearing loss or tubercular or state institutions caring for children who are  
25 deprived, wayward, miscreant, delinquent, children in need of care or  
26 juvenile offenders and who are in need of residential care or treatment,  
27 or institutions designed primarily to provide vocational rehabilitation for  
28 handicapped persons. *As used in this section, "state institutions" shall*  
29 *include, but not be limited to, those institutions under the authority of*  
30 *the commissioner of juvenile justice.* The proceeds of such tax levy shall  
31 be apportioned in accordance with this act.

32 (b) The county treasurer of each county shall make the proceeds of  
33 the tax levy provided for in this section available to the state treasurer  
34 immediately upon collection. When available, the state treasurer shall  
35 withdraw from each county the proceeds of the taxes raised by such tax  
36 levy. Upon such withdrawal the state treasurer shall deposit the same in  
37 the state treasury and shall credit the same as provided in K.S.A. 76-6b05  
38 and amendments thereto.

39 Sec. 92. K.S.A. 1996 Supp. 76-6b09 is hereby amended to read as  
40 follows: 76-6b09. (a) There is hereby levied in the year 1990, a state tax  
41 of .25 mill upon all taxable tangible property in the state. Such tax levy  
42 shall be in addition to all other state tax levies authorized by law. Such  
43 tax levy shall be for the use and benefit of state correctional institutions.

There is no procedure for relinquishment to the commissioner.

Clarify that "state institutions" include institutions under the authority of the commissioner.

Clarify that "state correctional institutions" include juvenile correctional facilities under the authority of the commissioner.

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1 (b) The county treasurer of each county shall make the proceeds of  
 2 the tax levy provided for in this section available to the state treasurer  
 3 immediately upon collection. When available the state treasurer shall  
 4 withdraw from each county the proceeds of the taxes raised by such tax  
 5 levy. Upon such withdrawal the state treasurer shall deposit the same in  
 6 the state treasury.

7 (c) All moneys received by the state treasurer shall be credited to the  
 8 correctional institutions building fund, which is hereby created, to be  
 9 appropriated by the legislature for use and benefit of state correctional  
 10 institutions. *As used in this section, "state correctional institutions" shall*  
 11 *include juvenile correctional facilities under the authority of the commis-*  
 12 *tioner of juvenile justice.*

13 Sec. 93. K.S.A. 76-2101, as amended by section 140 of chapter 229  
 14 of the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
 15 76-2101. (a) The name of the youth center at Topeka is hereby changed  
 16 to the *Topeka* juvenile correctional facility at ~~Topeka~~. On and after July  
 17 1, 1997, any reference in the laws of this state to the state industrial school  
 18 for boys or the youth center at Topeka shall be construed as referring to  
 19 the *Topeka* juvenile correctional facility at ~~Topeka~~.

20 (b) The commissioner of juvenile justice shall have the management  
 21 and control of the *Topeka* juvenile correctional facility at ~~Topeka~~.

22 Sec. 94. K.S.A. 76-2101a, as amended by section 141 of chapter 229  
 23 of the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
 24 76-2101a. (a) The superintendent of the *Topeka* juvenile correctional fa-  
 25 cility at ~~Topeka~~ shall remit all moneys received by or for the superinten-  
 26 dent from charges and other operations of such institution to the state  
 27 treasurer at least monthly. Upon receipt of any such remittance the state  
 28 treasurer shall deposit the entire amount thereof in the state treasury and  
 29 the same shall be credited to the *Topeka* juvenile correctional facility at  
 30 ~~Topeka~~ fee fund. All expenditures from such fund shall be made in ac-  
 31 cordance with appropriation acts upon warrants of the director of account  
 32 and reports issued pursuant to vouchers approved by such superintendent  
 33 or by a person or persons designated by the superintendent.

34 (b) The superintendent of the *Atchison* juvenile correctional facility  
 35 at ~~Atchison~~ shall remit all moneys received by or for the superintendent  
 36 from charges and other operations of such institution to the state treasurer  
 37 at least monthly. Upon receipt of any such remittance the state treasurer  
 38 shall deposit the entire amount thereof in the state treasury and the same  
 39 shall be credited to the *Atchison* juvenile correctional facility at ~~Atchison~~  
 40 fee fund. All expenditures from such fund shall be made in accordance  
 41 with appropriation acts upon warrants of the director of accounts and  
 42 reports issued pursuant to vouchers approved by such superintendent or  
 43 by a person or persons designated by the superintendent.

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1 Sec. 95. K.S.A. 76-2101b, as amended by section 142 of chapter 229  
 2 of the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
 3 76-2101b. (a) There is hereby established, as a separate institution, the  
 4 youth center at Atchison. The name of the youth center at Atchison is  
 5 hereby changed to the *Atchison* juvenile correctional facility at *Atchison*.  
 6 On and after July 1, 1997, any reference in the laws of this state to the  
 7 youth center at Atchison shall be construed as referring to the *Atchison*  
 8 juvenile correctional facility at *Atchison*.

9 (b) The commissioner of juvenile justice shall have the management  
 10 and control of the *Atchison* juvenile correctional facility at *Atchison*.

11 Sec. 96. K.S.A. 76-2125, as amended by section 145 of chapter 229  
 12 of the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
 13 76-2125. After conveyance of the legal title to the state of Kansas, the  
 14 control of such lands shall be vested in the secretary of social and reha-  
 15 bilitation services for the use and benefit of the youth center at Topeka.  
 16 On and after July 1, 1997, the control of such lands shall be vested in the  
 17 commissioner of juvenile justice for the use and benefit of the *Topeka*  
 18 juvenile correctional facility at *Topeka*.

19 Sec. 97. K.S.A. 76-2128, as amended by section 146 of chapter 229  
 20 of the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
 21 76-2128. When the state of Kansas has acquired title to such real estate  
 22 as hereinbefore provided such real estate shall be for the use of the *To-*  
 23 *peka* juvenile correctional facility at *Topeka* until other use is directed or  
 24 disposition is made by the legislature.

25 Sec. 98. K.S.A. 76-2201, as amended by section 147 of chapter 229  
 26 of the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
 27 76-2201. The name of the youth center at Beloit is hereby changed to  
 28 the *Belott* juvenile correctional facility at *Beloit*. On and after July 1, 1997,  
 29 any reference in the laws of this state to the state industrial school for  
 30 girls or the youth center at Beloit shall be construed as referring to the  
 31 *Belott* juvenile correctional facility at *Beloit*.

32 The commissioner of juvenile justice shall have the management and  
 33 control of the *Belott* juvenile correctional facility at *Beloit*.

34 Sec. 99. K.S.A. 76-2201a, as amended by section 148 of chapter 229  
 35 of the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
 36 76-2201a. The superintendent of the *Belott* juvenile correctional facility  
 37 at *Beloit* shall remit all moneys received by or for the superintendent  
 38 from charges and other operations of such institution to the state treasurer  
 39 at least monthly. Upon receipt of any such remittance the state treasurer  
 40 shall deposit the entire amount thereof in the state treasury and the same  
 41 shall be credited to the *Belott* juvenile correctional facility at *Beloit* fee  
 42 fund. All expenditures from such fund shall be made in accordance with  
 43 appropriation acts upon warrants of the director of accounts and reports

Technical amendments with institutions' names being changed.

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1 issued pursuant to vouchers approved by such superintendent or by a  
2 person or persons designated by the superintendent.

3 Sec. 100. K.S.A. 76-2219, as amended by section 149 of chapter 229  
4 of the 1996 Session Laws of Kansas, is hereby amended to read as follows:  
5 76-2219. The commissioner of juvenile justice is hereby authorized to  
6 lease or convey for and on behalf of the state of Kansas certain lands  
7 located east of highway 129 and now a part of the *Beloit* juvenile correc-  
8 tional facility at ~~Beloit~~ to a political subdivision of this state if such lands  
9 are considered excess to present and future needs of the *Beloit* juvenile  
10 correctional facility at ~~Beloit~~ and is recommended for such conveyance  
11 by the state finance council and is to be used for educational purposes.

12 Sec. 101. K.S.A. 1996 Supp. 76-3201 is hereby amended to read as  
13 follows: 76-3201. On and after July 1, 1997, the commissioner shall ap-  
14 point the superintendents of the *Atchison* juvenile correctional facility at  
15 ~~Atchison~~, the *Beloit* juvenile correctional facility at ~~Beloit~~ and, the *Topoka*  
16 juvenile correctional facility at ~~Topoka~~ and the directors of and the *Lar-*  
17 *ned* juvenile correctional facility at ~~Larned~~ and the juvenile correctional  
18 facility at ~~Osawatomie~~. Superintendents and directors shall be in the un-  
19 classified service under the Kansas civil service act. A superintendent or  
20 director may be removed at any time by the commissioner. Each super-  
21 intendent and director shall receive an annual salary fixed by the com-  
22 missioner, with the approval of the governor. The commissioner may ap-  
23 point an acting superintendent for any institution which has a  
24 superintendent or an acting director for each institution which has a di-  
25 rector to serve temporarily until a vacancy is filled. Acting superintendents  
26 and directors shall have the same powers, duties and functions as super-  
27 intendents and directors.

28 Sec. 102. K.S.A. 1996 Supp. 79-4803 is hereby amended to read as  
29 follows: 79-4803. (a) ~~Before July 1, 1995, an amount equal to 10% of all~~  
30 ~~moneys credited to the state gaming revenues fund shall be transferred~~  
31 ~~and credited in accordance with the following:~~

- 32 (1) ~~A portion of such amount, which shall be specified by appropri-~~  
33 ~~ations act, shall be credited to the juvenile detention facilities fund; and~~
- 34 (2) ~~the remainder of such amount shall be credited to the correctional~~  
35 ~~institutions building fund created pursuant to K.S.A. 76-6b09, and~~  
36 ~~amendments thereto, to be appropriated by the legislature for the use~~  
37 ~~and benefit of state correctional institutions as provided in K.S.A. 76-~~  
38 ~~6b09 and amendments thereto.~~

39 (b) ~~On and after July 1, 1995,~~

- 40 (1) An amount equal to 10% of all moneys credited to the state gam-  
41 ing revenues fund shall be transferred and credited to the correctional  
42 institutions building fund created pursuant to K.S.A. 76-6b09 and amend-  
43 ments thereto, to be appropriated by the legislature for the use and ben-

Technical amendments with institutions' names being changed.

Establish that the commissioner, with the approval of the Kansas Advisory Group on Juvenile Justice and Delinquency Prevention, will administer the juvenile detention facilities fund.

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1 eft of state correctional institutions as provided in K.S.A. 76-6b09 and  
2 amendments thereto; and

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

6 ~~(e)~~ (b) There is hereby created in the state treasury the juvenile de-  
7 tention facilities fund which shall be administered by the ~~attorney general~~  
8 *commissioner of juvenile justice as approved by the Kansas advisory*  
9 *group on juvenile justice and delinquency prevention*. All expenditures  
10 from the juvenile detention facilities fund shall be for *the awarding of*  
11 *grants to community juvenile justice programs, as established in section*  
12 *1, and amendments thereto*; the retirement of debt of facilities for the  
13 detention of juveniles; or for the construction, renovation, remodeling or  
14 operational costs of facilities for the detention of juveniles in accordance  
15 with a grant program which shall be established with grant criteria de-  
16 signed to facilitate the expeditious award and payment of grants for the  
17 purposes for which the moneys are intended. "Operational costs" shall  
18 not be limited to any per capita reimbursement by the ~~secretary of social~~  
19 ~~and rehabilitation services commissioner of juvenile justice~~ for juveniles  
20 under the supervision and custody of the ~~secretary~~ *commissioner* but shall  
21 include payments to counties as and for their costs of operating the fa-  
22 cility. The ~~secretary of social and rehabilitation services commissioner of~~  
23 *juvenile justice* shall make grants of the moneys credited to the juvenile  
24 detention facilities fund for such purposes to counties in accordance with  
25 such grant program. All expenditures from the juvenile detention facilities  
26 fund shall be made in accordance with appropriation acts upon warrants  
27 of the director of accounts and reports issued pursuant to vouchers ap-  
28 proved by the ~~secretary of social and rehabilitation services or the secre-~~  
29 ~~tary's commissioner of juvenile justice or the commissioner's designee.~~

30 ~~(d) On July 1, 1994, the director of accounts and reports shall transfer~~  
31 ~~all moneys in the juvenile detention facilities capital improvements fund~~  
32 ~~to the juvenile detention facilities fund established pursuant to subsection~~  
33 ~~(e). On July 1, 1994, all liabilities of the juvenile detention facilities capital~~  
34 ~~improvements fund existing prior to such date are hereby imposed on the~~  
35 ~~juvenile detention facilities fund established pursuant to subsection (e)~~  
36 ~~and the juvenile detention facilities capital improvements fund is hereby~~  
37 ~~abolished.~~

38 Sec. 103. K.S.A. 20-1a11, 21-2511, as amended by section 22 of  
39 chapter 229 of the 1996 Session Laws of Kansas, 21-3413, as amended  
40 by section 23 of chapter 229 of the 1996 Session Laws of Kansas, 21-  
41 3611, as amended by section 24 of chapter 229 of the 1996 Session Laws  
42 of Kansas, K.S.A. 21-3612, as amended by section 25 of chapter 229 of  
43 the 1996 Session Laws of Kansas, 22-4701, as amended by section 27 of



1 chapter 229 of the 1996 Session Laws of Kansas, 28-170, as amended by  
2 section 28 of chapter 229 of the 1996 Session Laws of Kansas, 38-1604,  
3 as amended by section 42 of chapter 229 of the 1996 Session Laws of  
4 Kansas, 38-1610, as amended by section 50 of chapter 229 of the 1996  
5 Session Laws of Kansas, 38-1613, as amended by section 52 of chapter  
6 229 of the 1996 Session Laws of Kansas, 38-1614, as amended by section  
7 53 of chapter 229 of the 1996 Session Laws of Kansas, 38-1618, as  
8 amended by section 59 of chapter 229 of the 1996 Session Laws of Kansas,  
9 38-1632, as amended by section 64 of chapter 229 of the 1996 Session  
10 Laws of Kansas, 38-1633, as amended by section 65 of chapter 229 of the  
11 1996 Session Laws of Kansas, 38-1636, as amended by section 67 of chap-  
12 ter 229 of the 1996 Session Laws of Kansas, 38-1640, as amended by  
13 section 71 of chapter 229 of the 1996 Session Laws of Kansas, 38-1661,  
14 as amended by section 79 of chapter 229 of the 1996 Session Laws of  
15 Kansas, 38-1662, as amended by section 80 of chapter 229 of the 1996  
16 Session Laws of Kansas, 38-1672, as amended by section 87 of chapter  
17 229 of the 1996 Session Laws of Kansas, 38-1674, as amended by section  
18 89 of chapter 229 of the 1996 Session Laws of Kansas, 40-1909, as  
19 amended by section 110 of chapter 229 of the 1996 Session Laws of  
20 Kansas, 72-978, as amended by section 120 of chapter 229 of the 1996  
21 Session Laws of Kansas, 74-5363, as amended by section 124 of chapter  
22 229 of the 1996 Session Laws of Kansas, 75-5291, 76-2101, as amended  
23 by section 140 of chapter 229 of the 1996 Session Laws of Kansas, 76-  
24 2101a, as amended by section 141 of chapter 229 of the 1996 Session  
25 Laws of Kansas, 76-2101b, as amended by section 142 of chapter 229 of  
26 the 1996 Session Laws of Kansas, 76-2125, as amended by section 145 of  
27 chapter 229 of the 1996 Session Laws of Kansas, 76-2128, as amended  
28 by section 146 of chapter 229 of the 1996 Session Laws of Kansas, 76-  
29 2201, as amended by section 147 of chapter 229 of the 1996 Session Laws  
30 of Kansas, 76-2201a, as amended by section 148 of chapter 229 of the  
31 1996 Session Laws of Kansas, and 76-2219, as amended by section 149  
32 of chapter 229 of the 1996 Session Laws of Kansas, and K.S.A. 1995 Supp.  
33 38-1602, as amended by section 41 of chapter 229 of the 1996 Session  
34 Laws of Kansas, 38-1608, as amended by section 48 of chapter 229 of the  
35 1996 Session Laws of Kansas, 38-1611, as amended by section 51 of chap-  
36 ter 229 of the 1996 Session Laws of Kansas, 38-1635, as amended by  
37 section 66 of chapter 229 of the 1996 Session Laws of Kansas, 38-1663,  
38 as amended by section 81 of chapter 229 of the 1996 Session Laws of  
39 Kansas, 38-1663, as amended by section 57 of this bill, 38-1668, as  
40 amended by section 85 of chapter 229 of the 1996 Session Laws of Kansas,  
41 38-1671, as amended by section 86 of chapter 229 of the 1996 Session  
42 Laws of Kansas, 38-1673, as amended by section 88 of chapter 229 of the  
43 1996 Session Laws of Kansas, 38-1675, as amended by section 90 of chap-

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1 ter 229 of the 1996 Session Laws of Kansas, and 38-1676, as amended by  
2 section 91 of chapter 229 of the 1996 Session Laws of Kansas, 38-1692,  
3 as amended by section 96 of chapter 229 of the 1996 Session Laws of  
4 Kansas, 40-19c09, as amended by section 113 of chapter 229 of the 1996  
5 Session Laws of Kansas, 74-8810, as amended by section 126 of chapter  
6 229 of the 1996 Session Laws of Kansas, and 74-9501, as amended by  
7 section 127 of chapter 229 of the 1996 Session Laws of Kansas, and K.S.A.  
8 1996 Supp. 21-2511, 21-3413, 28-170, 38-1507, 38-1508, 38-1522, 38-  
9 1613, 38-1614, 38-1640, 38-1692, 38-16,126, 38-16,128, 38-1808, 40-  
10 1909, 40-19c09, 72-89a02, 74-8810, 75-2935, 75-2935b, 75-6102, 75-  
11 6104, 75-6801, 75-7001, 75-7007, 75-7008, 75-7009, 75-7010, 75-7021,  
12 75-2023, 75-7024, 75-7025, 75-7026, 75-7028, 76-6b04, 76-6b09, 76-3201  
13 and 79-4803 are hereby repealed.  
14 Sec. 104. On and after July 1, 1999, K.S.A. 1995 Supp. 38-1663, as  
15 amended by section 55 of this bill, is hereby repealed.  
16 Sec. 105. This act shall take effect and be in force from and after its  
17 publication in the statute book.

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