

CHAPTER 101
SENATE BILL No. 410

AN ACT concerning juvenile corrections; amending K.S.A. 76-2101, 76-2125 and 76-2128 and K.S.A. 2007 Supp. 38-2302, 76-2101a, 76-3201 and 76-3202 and repealing the existing sections; also repealing K.S.A. 76-2111.

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

Section 1. K.S.A. 2007 Supp. 38-2302 is hereby amended to read as follows: 38-2302. As used in this code, unless the context otherwise requires:

(a) “Commissioner” means the commissioner of juvenile justice *or the commissioner’s designee*.

(b) “Conditional release” means release from a term of commitment in a juvenile correctional facility for an aftercare term pursuant to K.S.A. 2007 Supp. 38-2369, and amendments thereto, under conditions established by the commissioner.

(c) “Court-appointed special advocate” means a responsible adult, other than an attorney appointed pursuant to K.S.A. 2007 Supp. 38-2306, and amendments thereto, who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 2007 Supp. 38-2307, and amendments thereto, in a proceeding pursuant to this code.

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

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

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

(g) “Investigator” means an employee of the juvenile justice authority assigned by the commissioner with the responsibility for investigations concerning employees at the juvenile correctional facilities and juveniles in the custody of the commissioner at a juvenile correctional facility.

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

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

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

(j) “Juvenile correctional facility” means a facility operated by the commissioner for the commitment of juvenile offenders.

(k) “Juvenile corrections officer” means a certified employee of the juvenile justice authority working at a juvenile correctional facility assigned by the commissioner with responsibility for maintaining custody, security and control of juveniles in the custody of the commissioner at a juvenile correctional facility.

(l) “Juvenile detention facility” means a public or private facility licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, which is used for the lawful custody of alleged or adjudicated juvenile offenders.

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

(n) “Juvenile offender” means a person who commits an offense while 10 or more years of age but less than 18 years of age which if

committed by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105, and amendments thereto, or who violates the provisions of K.S.A. 21-4204a or 41-727 or subsection (j) of K.S.A. 74-8810, and amendments thereto, but does not include: (1) A person 14 or more years of age who commits a traffic offense, as defined in subsection (d) of K.S.A. 8-2117, and amendments thereto;

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

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

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

(B) sentenced as an adult under the Kansas criminal code following termination of status as an extended jurisdiction juvenile pursuant to K.S.A. 2007 Supp. 38-2364, and amendments thereto; or

(C) convicted or sentenced as an adult in another state or foreign jurisdiction under substantially similar procedures described in K.S.A. 2007 Supp. 38-2347, and amendments thereto, or because of attaining the age of majority designated in that state or jurisdiction.

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

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

(q) "Risk assessment tool" means an instrument administered to juveniles which delivers a score, or group of scores, describing, but not limited to describing, the juvenile's potential risk to the community.

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

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

(t) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 or article 70 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 2. K.S.A. 76-2101 is hereby amended to read as follows: 76-2101. ~~(a) The name of the youth center at Topeka is hereby changed to the Topeka juvenile correctional facility is hereby changed to the Kansas juvenile correctional complex.~~ On and after July 1, ~~1997~~ 2008, any reference ~~in the laws of this state~~ to the state industrial school for boys ~~or, the youth center at Topeka or the Topeka juvenile correctional facility, or words of like effect, in any statute, contract or other document,~~ shall be construed as referring to the ~~Topeka juvenile correctional facility~~ *Kansas juvenile correctional complex*.

~~(b) The commissioner of juvenile justice shall have the management and control of the Topeka juvenile correctional facility.~~

Sec. 3. K.S.A. 2007 Supp. 76-2101a is hereby amended to read as follows: 76-2101a. ~~(a) The superintendent of the Topeka juvenile correctional facility shall remit all moneys received by or for the superintendent from charges and other operations of such institution to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Topeka juvenile correctional facility fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of account and reports issued pursuant to vouchers approved by such superintendent or by a person or persons designated by the superintendent.~~

~~(b) The superintendent of the Atchison juvenile correctional facility shall remit all moneys received by or for the superintendent from charges and other operations of such institution to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto.~~

Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Atchison juvenile correctional facility fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by such superintendent or by a person or persons designated by the superintendent.

Sec. 4. K.S.A. 76-2125 is hereby amended to read as follows: 76-2125. After conveyance of the legal title to the state of Kansas, the control of such lands shall be vested in the secretary of social and rehabilitation services for the use and benefit of the youth center at Topeka. On and after July 1, 1997, the control of such lands shall be vested in the commissioner of juvenile justice for the use and benefit of the Topeka juvenile correctional facility. *On and after July 1, 2008, the control of such land shall be vested in the commissioner of juvenile justice for the use and benefit of the Kansas juvenile correctional complex.*

Sec. 5. K.S.A. 76-2128 is hereby amended to read as follows: 76-2128. When the state of Kansas has acquired title to such real estate as hereinbefore provided such real estate shall be for the use of the ~~Topeka juvenile correctional facility~~ *Kansas juvenile correctional complex* until other use is directed or disposition is made by the legislature.

Sec. 6. K.S.A. 2007 Supp. 76-3201 is hereby amended to read as follows: 76-3201. ~~On and after July 1, 1997, The commissioner shall appoint the superintendents of the Atchison juvenile correctional facility, the Beloit juvenile correctional facility, the Topeka juvenile correctional facility and the Larned juvenile correctional facility. On and after July 1, 2003, the commissioner shall appoint the superintendent of the Kansas juvenile correctional complex. Superintendents may appoint a superintendent and deputy superintendent at each institution. Superintendents and deputy superintendents shall be in the unclassified service under the Kansas civil service act. A superintendent or a deputy superintendent may be removed at any time by the commissioner. Each superintendent and deputy superintendent shall receive an annual salary fixed by the commissioner, with the approval of the governor. If a vacancy occurs in the position of superintendent or deputy superintendent, the commissioner may appoint an acting superintendent for any institution which has a superintendent or deputy superintendent to serve temporarily until a vacancy is filled. Acting superintendents shall have the same powers, duties and functions as superintendents. Acting deputy superintendents shall have the same powers, duties and functions as deputy superintendents.~~

Nothing in this section shall be construed as prohibiting the appointment of a person to serve as the superintendent or deputy superintendent at more than one institution.

Sec. 7. K.S.A. 2007 Supp. 76-3202 is hereby amended to read as follows: 76-3202. ~~(a) Employees of each institution shall be appointed by the superintendent or director of the institution. All employees so appointed shall be in the classified service under the Kansas civil service act, except as provided in subsection (b) and physicians who shall be in the unclassified service under the Kansas civil service act and as provided in K.S.A. 75-2935, and amendments thereto, or any other statute.~~

~~(b) The superintendent of the Topeka juvenile correctional facility may appoint a deputy superintendent and an attorney for such facility. Such deputy and attorney shall be in the unclassified service under the Kansas civil service act and as provided in K.S.A. 75-2935, and amendments thereto.~~

Sec. 8. K.S.A. 76-2101, 76-2111, 76-2125 and 76-2128 and K.S.A. 2007 Supp. 38-2302, 76-2101a, 76-3201 and 76-3202 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 21, 2008.

Published in the *Kansas Register* May 1, 2008.
