

HOUSE BILL No. 2076

By Committee on Child Welfare and Foster Care

Requested by Laura Howard, Secretary for Children and Families

1-23

1 AN ACT concerning minors; relating to the revised Kansas code for care
2 of children; reducing the number of days that a custodian may be
3 authorized by the court to place a child in custody of the secretary in a
4 secure facility; eliminating the option for a court to extend the period of
5 authorization for a custodian to place a child in custody of the secretary
6 in a secure facility; amending K.S.A. 38-2260 and repealing the
7 existing section.
8

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

10 Section 1. K.S.A. 38-2260 is hereby amended to read as follows: 38-
11 2260. (a) *Valid court order.* During proceedings under this code, the court
12 may enter an order directing a child who is the subject of the proceedings
13 to remain in a present or future placement if:

14 (1) The child and the child's guardian ad litem are present in court
15 when the order is entered;

16 (2) the court finds that the child has been adjudicated a child in need
17 of care pursuant to K.S.A. 38-2202(d)(6), (d)(7), (d)(8), (d)(9), (d)(10) or
18 (d)(12), and amendments thereto, and that the child is not likely to be
19 available within the jurisdiction of the court for future proceedings;

20 (3) the child and the guardian ad litem receive oral and written notice
21 of the consequences of violation of the order; and

22 (4) a copy of the written notice is filed in the official case file.

23 (b) *Application.* Any person may file a verified application for
24 determination that a child has violated an order entered pursuant to
25 subsection (a) and for an order authorizing holding the child in a secure
26 facility. The application shall state the applicant's belief that the child has
27 violated the order entered pursuant to subsection (a) without good cause
28 and the specific facts supporting the allegation.

29 (c) *Ex parte order.* After reviewing the application filed pursuant to
30 subsection (b), the court may enter an ex parte order directing that the
31 child be taken into custody and held in a secure facility designated by the
32 court, if the court finds probable cause that the child violated the court's
33 order to remain in placement without good cause. Pursuant to K.S.A. 38-
34 2237, and amendments thereto, the order shall be served on the child's
35 parents, the child's legal custodian and the child's guardian ad litem.

1 (d) *Preliminary hearing.* Within 24 hours following a child's being
2 taken into custody pursuant to an order issued under subsection (c), the
3 court shall hold a preliminary hearing to determine whether the child
4 admits or denies the allegations of the application and, if the child denies
5 the allegations, to determine whether probable cause exists to support the
6 allegations.

7 (1) Notice of the time and place of the preliminary hearing shall be
8 given orally or in writing to the child's parents, the child's legal custodian
9 and the child's guardian ad litem.

10 (2) At the hearing, the child shall have the right to a guardian ad litem
11 and shall be served with a copy of the application.

12 (3) If the child admits the allegations or enters a no contest statement
13 and if the court finds that the admission or no contest statement is
14 knowledgeable and voluntary, the court shall proceed without delay to the
15 placement hearing pursuant to subsection (f).

16 (4) If the child denies the allegations, the court shall determine
17 whether probable cause exists to hold the child in a secure facility pending
18 an evidentiary hearing pursuant to subsection (e). After hearing the
19 evidence, if the court finds that: (A) There is probable cause to believe that
20 the child has violated an order entered pursuant to subsection (a) without
21 good cause; and (B) placement in a secure facility is necessary for the
22 protection of the child or to assure the presence of the child at the
23 evidentiary hearing pursuant to subsection (e), the court may order the
24 child held in a secure facility pending the evidentiary hearing.

25 (e) *Evidentiary hearing.* The court shall hold an evidentiary hearing
26 on an application within 72 hours of the child's being taken into custody.
27 Notice of the time and place of the hearing shall be given orally or in
28 writing to the child's parents, the child's legal custodian and the child's
29 guardian ad litem. At the evidentiary hearing, the court shall determine by
30 a clear and convincing evidence whether the child has:

31 (1) Violated a court order entered pursuant to subsection (a) without
32 good cause;

33 (2) been provided at the hearing with the rights enumerated in
34 subsection (d)(2); and

35 (3) been informed of:

36 (A) The nature and consequences of the proceeding;

37 (B) the right to confront and cross-examine witnesses and present
38 evidence;

39 (C) the right to have a transcript or recording of the proceedings; and

40 (D) the right to appeal.

41 (f) *Placement.* (1) If the child admits violating the order entered
42 pursuant to subsection (a) or if, after an evidentiary hearing, the court finds
43 that the child has violated such an order, the court shall immediately

1 proceed to a placement hearing. The court may enter an order awarding
2 custody of the child to:

3 (A) A parent or other legal custodian;

4 (B) a person other than a parent or other person having custody, who
5 shall not be required to be licensed under article 5 of chapter 65 of the
6 Kansas Statutes Annotated, and amendments thereto;

7 (C) a youth residential facility; or

8 (D) the secretary, if the secretary does not already have legal custody
9 of the child.

10 (2) The court may authorize the custodian to place the child in a
11 secure facility, if the court determines that all other placement options have
12 been exhausted or are inappropriate, based upon a written report submitted
13 by the secretary, if the child is in the secretary's custody, or submitted by a
14 public agency independent of the court and law enforcement, if the child is
15 in the custody of someone other than the secretary. The report shall detail
16 the behavior of the child and the circumstances under which the child was
17 brought before the court and made subject to the order entered pursuant to
18 subsection (a).

19 (3) *For authorizations granted after July 1, 2025*, the authorization to
20 place the child in a secure facility pursuant to this subsection shall expire
21 ~~60~~ 45 days, inclusive of weekend and legal holidays, after its issue. ~~The~~
22 ~~court may grant extensions of such authorization for two additional~~
23 ~~periods, each not to exceed 60 days, upon rehearing pursuant to K.S.A. 38-~~
24 ~~2256, and amendments thereto~~ *the issuance of such authorization.*

25 (g) *Payment.* The secretary shall only pay for placement and services
26 for a child placed in a secure facility pursuant to subsection (f) upon
27 receipt of a valid court order authorizing secure care placement.

28 (h) *Limitations on facilities used.* Nothing in this section shall
29 authorize placement of a child in an adult jail or lockup.

30 (i) *Time limits, computation.* Except as otherwise specifically
31 provided by subsection (f), Saturdays, Sundays, legal holidays, and days
32 on which the office of the clerk of the court is not accessible shall not be
33 counted in computing any time limit imposed by this section.

34 Sec. 2. K.S.A. 38-2260 is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its
36 publication in the statute book.