

HOUSE BILL No. 2325

By Committee on Corrections and Juvenile Justice

Requested by Representative Lewis

2-7

1 AN ACT concerning children and minors; relating to the revised Kansas
2 juvenile justice code; authorizing judges to commit juvenile offenders
3 to detention for technical violations of probation; increasing the
4 cumulative detention limit for juvenile offenders and criminal penalties
5 for juvenile offenders who use a firearm in the commission of an
6 offense or who are repeat offenders; amending K.S.A. 38-2361, 38-
7 2369 and 75-7023 and K.S.A. 2024 Supp. 38-2391 and 38-2392 and
8 repealing the existing sections.
9

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

11 Section 1. K.S.A. 38-2361 is hereby amended to read as follows: 38-
12 2361. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 38-
13 2356, and amendments thereto, modification of sentence pursuant to
14 K.S.A. 38-2367, and amendments thereto, or violation of a condition of
15 sentence pursuant to K.S.A. 38-2368, and amendments thereto, the court
16 may impose one or more of the following sentencing alternatives for a
17 fixed period pursuant to K.S.A. 38-2369 and 38-2391, and amendments
18 thereto.

19 (1) Place the juvenile on probation for a fixed period pursuant to
20 K.S.A. 38-2391, and amendments thereto, subject to terms and conditions
21 the court deems appropriate consistent with juvenile justice programs in
22 the community. Any juvenile placed on probation shall be supervised
23 according to the juvenile's risk and needs as determined by a risk and
24 needs assessment. Placement of juvenile offenders to community
25 corrections for probation supervision shall be limited to offenders
26 adjudicated for an offense that are determined to be moderate-risk, high-
27 risk or very high-risk on a risk and needs assessment using the cutoff
28 scores established by the secretary pursuant to K.S.A. 38-2360, and
29 amendments thereto.

30 (2) Order the juvenile to participate in a community based program
31 available in such judicial district subject to the terms and conditions the
32 court deems appropriate. This alternative shall not be ordered with the
33 alternative in paragraph~~(H)~~ (10). Requirements pertaining to child
34 support may apply if custody is vested with other than a parent.

35 (3) Place the juvenile in the custody of a parent or other suitable

1 person, which is not a group home or other facility licensed pursuant to
2 article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments
3 thereto, subject to terms and conditions consistent with juvenile justice
4 programs in the community. This alternative shall not be ordered with the
5 alternative in paragraph~~(H)~~ (10). Requirements pertaining to child
6 support may apply if custody is vested with other than a parent.

7 (4) Order the juvenile to attend counseling, educational, mediation or
8 other sessions, or to undergo a drug evaluation pursuant to subsection (b).

9 (5) Suspend or restrict the juvenile's driver's license or privilege to
10 operate a motor vehicle on the streets and highways of this state pursuant
11 to subsection (c).

12 (6) Order the juvenile to perform charitable or community service
13 work.

14 (7) Order the juvenile to make appropriate reparation or restitution
15 pursuant to subsection (d).

16 (8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to
17 subsection (e).

18 (9) Place the juvenile under a house arrest program administered by
19 the court pursuant to K.S.A. 21-6609, and amendments thereto.

20 ~~(10) Place the juvenile in the custody of the secretary of corrections~~
21 ~~as provided in K.S.A. 38-2365, and amendments thereto. This alternative~~
22 ~~shall not be ordered with the alternative in paragraph (3) or (12). Except~~
23 ~~for mandatory drug and alcohol evaluation, when this alternative is~~
24 ~~ordered with alternatives in paragraphs (2), (4) and (9), such orders shall~~
25 ~~constitute a recommendation by the court. Requirements pertaining to~~
26 ~~child support shall apply under this alternative. The provisions of this~~
27 ~~paragraph shall expire on January 1, 2018.~~

28 ~~(H)~~ Upon a violation of a condition of sentence, other than a
29 technical violation pursuant to K.S.A. 38-2368, and amendments thereto,
30 commit the juvenile to detention for a period no longer than 30 days
31 subject to the provisions of subsection (g).

32 ~~(H2)(II)~~ If the judge finds and enters into the written record that the
33 juvenile poses a significant risk of harm to another or damage to property,
34 and the juvenile is otherwise eligible for commitment pursuant to K.S.A.
35 38-2369, and amendments thereto, commit the juvenile directly to the
36 custody of the secretary of corrections for placement in a juvenile
37 correctional facility or a youth residential facility. Placement in a youth
38 residential facility shall only be permitted as authorized in K.S.A. 38-
39 2369(e), and amendments thereto. If the court elects, a period of
40 conditional release pursuant to K.S.A. 38-2369, and amendments thereto,
41 may also be ordered. The period of conditional release shall be limited to a
42 maximum of six months and shall be subject to graduated responses.
43 Twenty-one days prior to the juvenile's release from a juvenile correctional

1 facility, the secretary of corrections or designee shall notify the court of the
2 juvenile's anticipated release date. This alternative may be ordered with the
3 alternative in paragraph (7). Requirements pertaining to child support shall
4 apply under this alternative.

5 ~~(13)~~(12) Upon a finding by the trier of fact during adjudication that a
6 firearm was *possessed or used* ~~in~~ *during* the commission of an offense by
7 the accused which, if committed by an adult, would constitute a felony, a
8 judge may commit the juvenile directly to the custody of the secretary of
9 corrections for placement in a juvenile correctional facility or youth
10 residential facility for a minimum term of ~~six~~ 12 months and up to a
11 maximum term of ~~18~~ 36 months, regardless of the risk level of such
12 juvenile as determined by a risk and needs assessment. If the juvenile is
13 committed to the custody of the secretary, and the court elects, a period of
14 conditional release, pursuant to K.S.A. 38-2369, and amendments thereto,
15 may also be ordered. The period of conditional release shall be limited to a
16 maximum of six months and shall be subject to graduated responses.
17 Twenty-one days prior to the juvenile's release from a juvenile correctional
18 facility or youth residential facility, the secretary of corrections or the
19 secretary's designee shall notify the court of the juvenile's anticipated
20 release date.

21 (b) If the court orders the juvenile to attend counseling, educational,
22 mediation or other sessions, or to undergo a drug and alcohol evaluation
23 pursuant to subsection (a)(4), the following provisions apply:

24 (1) The court may order the juvenile offender to participate in
25 counseling or mediation sessions or a program of education, including
26 placement in an alternative educational program approved by a local
27 school board. The costs of any counseling or mediation may be assessed as
28 expenses in the case. No mental health center shall charge a fee for court-
29 ordered counseling greater than what the center would have charged the
30 person receiving the counseling if the person had requested counseling on
31 the person's own initiative. No mediator shall charge a fee for court-
32 ordered mediation greater than what the mediator would have charged the
33 person participating in the mediation if the person had requested mediation
34 on the person's own initiative. Mediation may include the victim but shall
35 not be mandatory for the victim; and

36 (2) if the juvenile has been adjudicated to be a juvenile by reason of a
37 violation of a statute that makes such a requirement, the court shall order
38 and, if adjudicated for any other offense, the court may order the juvenile
39 to submit to and complete a drug and alcohol evaluation by a community-
40 based drug and alcohol safety action program certified pursuant to K.S.A.
41 8-1008, and amendments thereto, and to pay a fee not to exceed the fee
42 established by that statute for such evaluation. The court may waive the
43 mandatory evaluation if the court finds that the juvenile completed a drug

1 and alcohol evaluation, approved by the community-based alcohol and
2 drug safety action program, within 12 months before sentencing. If the
3 evaluation occurred more than 12 months before sentencing, the court
4 shall order the juvenile to resubmit to and complete the evaluation and
5 program as provided herein. If the court finds that the juvenile and those
6 legally liable for the juvenile's support are indigent, the court may waive
7 the fee. In no event shall the fee be assessed against the secretary of
8 corrections or the department of corrections nor shall the fee be assessed
9 against the secretary of the department for children and families or the
10 Kansas department for children and families if the juvenile is in the
11 secretary's care, custody and control.

12 (c) If the court orders suspension or restriction of a juvenile offender's
13 driver's license or privilege to operate a motor vehicle on the streets and
14 highways of this state pursuant to subsection (a)(5), the following
15 provisions apply:

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

34 (2) in lieu of suspending a juvenile offender's driver's license or
35 privilege to operate a motor vehicle on the highways of this state, the court
36 may enter an order which places conditions on the juvenile offender's
37 privilege of operating a motor vehicle on the streets and highways of this
38 state, a certified copy of which the juvenile offender shall be required to
39 carry any time the juvenile offender is operating a motor vehicle on the
40 streets and highways of this state. The order shall prescribe a definite time
41 period for the conditions imposed. Upon entering an order restricting a
42 juvenile offender's license, the court shall require the juvenile offender to
43 surrender such juvenile offender's license to the court. The court shall

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

29 (d) The following provisions apply to the court's determination of
30 whether to order reparation or restitution pursuant to subsection (a)(7):

31 (1) The court shall order the juvenile to make reparation or restitution
32 to the aggrieved party for the damage or loss caused by the juvenile
33 offender's offense unless it finds compelling circumstances that would
34 render a plan of reparation or restitution unworkable. If the court finds
35 compelling circumstances that would render a plan of reparation or
36 restitution unworkable, the court shall enter such findings with
37 particularity on the record. In lieu of reparation or restitution, the court
38 may order the juvenile to perform charitable or social service for
39 organizations performing services for the community; and

40 (2) restitution may include, but shall not be limited to, the amount of
41 damage or loss caused by the juvenile's offense. Restitution may be made
42 by payment of an amount fixed by the court or by working for the parties
43 sustaining loss in the manner ordered by the court. An order of monetary

1 restitution shall be a judgment against the juvenile that may be collected
2 by the court by garnishment or other execution as on judgments in civil
3 cases. Such judgment shall not be affected by the termination of the court's
4 jurisdiction over the juvenile offender.

5 (e) If the court imposes a fine pursuant to subsection (a)(8), the
6 following provisions apply:

7 (1) The amount of the fine may not exceed \$1,000 for each offense.
8 The amount of the fine should be related to the seriousness of the offense
9 and the juvenile's ability to pay. Payment of a fine may be required in a
10 lump sum or installments;

11 (2) in determining whether to impose a fine and the amount to be
12 imposed, the court shall consider that imposition of a fine is most
13 appropriate in cases where the juvenile has derived pecuniary gain from
14 the offense and that imposition of a restitution order is preferable to
15 imposition of a fine; and

16 (3) any fine imposed by *the* court shall be a judgment against the
17 juvenile that may be collected by the court by garnishment or other
18 execution as on judgments in civil cases. Such judgment shall not be
19 affected by the termination of the court's jurisdiction over the juvenile.

20 (f) Before the court sentences a juvenile offender pursuant to
21 subsection (a), the court shall administer a risk assessment tool, as
22 described in K.S.A. 38-2360, and amendments thereto, or review a risk
23 assessment tool that was administered within the past six months to the
24 juvenile and use the results of that assessment to inform orders made
25 pursuant to K.S.A. 38-2369 and 38-2391, and amendments thereto.

26 (g) If the court commits the juvenile to detention pursuant to
27 subsection (a)(11), the following provisions shall apply:

28 (1) The court shall only order commitment to detention upon
29 violation of sentencing conditions where all other alternatives have been
30 exhausted.

31 (2) In order to commit a juvenile to detention upon violation of
32 sentencing conditions, the court shall find that the juvenile poses a
33 significant risk of harm to another or damage to property, is charged with a
34 new felony offense, or violates conditional release.

35 (3) The court shall not order commitment to detention upon
36 adjudication as a juvenile offender pursuant to K.S.A. 38-2356, and
37 amendments thereto, for solely technical violations of probation, contempt,
38 a violation of a valid court order, to protect from self-harm or due to any
39 state or county failure to find adequate alternatives.

40 (4) Cumulative detention use shall be limited to a maximum of ~~45~~ 90
41 days over the course of a juvenile offender's case pursuant to K.S.A. 38-
42 2391, and amendments thereto. The court shall review any detention
43 commitment every seven days and may shorten the initial commitment or

1 extend the commitment. In no case, however, may the term of detention or
2 any extension thereof exceed the cumulative detention limit of ~~45~~ 90 days
3 or the overall case length limit.

4 (5) A juvenile over 18 years of age and less than 23 years of age at
5 sentencing shall be committed to a county jail, in lieu of a juvenile
6 detention center, under the same time restrictions imposed by paragraph
7 (1), but shall not be committed to or confined in a juvenile detention
8 facility.

9 (h) Any order issued by the judge pursuant to this section shall be in
10 effect immediately upon entry into the court's minutes.

11 (i) In addition to the requirements of K.S.A. 38-2373, and
12 amendments thereto, if a person is under 18 years of age and convicted of
13 a felony or adjudicated as a juvenile offender for an offense if committed
14 by an adult would constitute the commission of a felony, the court shall
15 forward a signed copy of the journal entry to the secretary of corrections
16 within 30 days of final disposition.

17 (j) (I) Except as further provided, if a juvenile has been adjudged to
18 be a juvenile offender for an offense which, if committed by an adult
19 would constitute the commission of:

20 ~~(A)~~ Aggravated human trafficking, as defined in K.S.A. 21-
21 5426(b), and amendments thereto, if the victim is less than 14 years of age;

22 ~~(B)~~ rape, as defined in K.S.A. 21-5503(a)(3), and amendments
23 thereto;

24 ~~(C)~~ aggravated indecent liberties with a child, as defined in K.S.A.
25 21-5506(b)(3), and amendments thereto;

26 ~~(D)~~ aggravated criminal sodomy, as defined in K.S.A. 21-5504(b)
27 (1) or (b)(2), and amendments thereto;

28 ~~(E)~~ commercial sexual exploitation of a child, as defined in K.S.A.
29 21-6422, and amendments thereto, if the victim is less than 14 years of
30 age;

31 ~~(F)~~ sexual exploitation of a child, as defined in K.S.A. 21-5510(a)
32 (1) or (a)(4), and amendments thereto, if the victim is less than 14 years of
33 age; or

34 ~~(G)~~ an attempt, conspiracy or criminal solicitation, as defined in
35 K.S.A. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an
36 offense defined in paragraphs (1) through (6);

37 (2) The court shall issue an order prohibiting the juvenile from
38 attending the attendance center that the victim of the offense attends. If
39 only one attendance center exists, for which the victim and juvenile are
40 eligible to attend, in the school district where the victim and the juvenile
41 reside, the court shall hear testimony and take evidence from the victim,
42 the juvenile, their families and a representative of the school district as to
43 why the juvenile should or should not be allowed to remain at the

1 attendance center attended by the victim. After such hearing, the court may
2 issue an order prohibiting the juvenile from attending the attendance center
3 that the victim of the offense attends.

4 (k) The court may order a short-term alternative placement of a
5 juvenile pursuant to subsection (a)(3) in an emergency shelter, therapeutic
6 foster home or community integration program if:

7 (1) Such juvenile has been adjudicated to be a juvenile offender for
8 an offense which, if committed by an adult would constitute the
9 commission of:

10 (A) Aggravated human trafficking, as defined in K.S.A. 21-5426(b),
11 and amendments thereto, if the victim is less than 14 years of age;

12 (B) rape, as defined in K.S.A. 21-5503, and amendments thereto;

13 (C) commercial sexual exploitation of a child, as defined in K.S.A.
14 21-6422, and amendments thereto, if the victim is less than 14 years of
15 age;

16 (D) sexual exploitation of a child, as defined in K.S.A. 21-5510(a)(1)
17 or (a)(4), and amendments thereto, if the victim is less than 14 years of
18 age;

19 (E) aggravated indecent liberties with a child, as defined in K.S.A.
20 21-5506, and amendments thereto, if the victim is less than 14 years of
21 age; or

22 (F) an attempt, conspiracy or criminal solicitation, as defined in
23 K.S.A. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an
24 offense defined in paragraphs (1) through (4); and

25 (2) (A) the victim resides in the same home as the juvenile offender;

26 (B) a community supervision officer in consultation with the
27 department for children and families determines that an adequate safety
28 plan, which shall include the physical and psychological well-being of the
29 victim, cannot be developed to keep the juvenile in the same home; and

30 (C) there are no relevant child in need of care issues that would
31 permit a case to be filed under the Kansas code for care of children.

32 The presumptive term of commitment shall not extend beyond the
33 overall case length limit but may be modified pursuant to K.S.A. 38-2367
34 and 38-2397, and amendments thereto. If a child is placed outside the
35 child's home at the dispositional hearing pursuant to this subsection and no
36 reintegration plan is made a part of the record of the hearing, a written
37 reintegration plan shall be prepared pursuant to K.S.A. 38-2397, and
38 amendments thereto, and submitted to the court within 15 days of the
39 initial order of the court.

40 (l) The sentencing hearing shall be open to the public as provided in
41 K.S.A. 38-2353, and amendments thereto.

42 (m) The overall case length limit shall be calculated by the court and
43 entered into the written record when one or more of the sentencing options

1 under this section are imposed. The period fixed by the court pursuant to
2 subsection (a) shall not extend beyond the overall case length limit.

3 Sec. 2. K.S.A. 38-2369 is hereby amended to read as follows: 38-
4 2369. (a) Except as provided in subsection (e) and K.S.A. 38-2361(a)(13),
5 *and amendments thereto*, for the purpose of committing juvenile offenders
6 to a juvenile correctional facility, upon a finding by the judge entered into
7 the written order that the juvenile poses a significant risk of harm to
8 another or damage to property, the following placements shall be applied
9 by the judge in the cases specified in this subsection. If used, the court
10 shall establish a specific term of commitment as specified in this
11 subsection. The term of commitment established by the court shall not
12 exceed the overall case length limit. Before a juvenile offender is
13 committed to a juvenile correctional facility pursuant to this section, the
14 court shall administer a risk assessment tool, as described in K.S.A. 38-
15 2360, and amendments thereto, or review a risk assessment tool that was
16 administered within the past six months to the juvenile.

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

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

33 (2) *Serious Offenders*. (A) The serious offender I is defined as an
34 offender adjudicated as a juvenile offender for an offense which, if
35 committed by an adult, would constitute a nondrug severity level 4, person
36 felony.

37 Offenders in this category may be committed to a juvenile correctional
38 facility for a minimum term of 18 months and up to a maximum term of 36
39 months. The aftercare term for this offender is set at a minimum term of
40 six months and up to a maximum term of 24 months.

41 (B) The serious offender II is defined as an offender adjudicated as a
42 juvenile offender for an offense:

43 (i) Committed prior to July 1, 2012, which, if committed by an adult

1 prior to July 1, 2012, would constitute a drug severity level 1 or 2 felony;
 2 or

3 (ii) committed on or after July 1, 2012, which, if committed by an
 4 adult on or after July 1, 2012, would constitute a drug severity level 1, 2 or
 5 3 felony or a nondrug severity level 5 or 6 person felony.

6 Offenders in this category may be committed to a juvenile correctional
 7 facility for a minimum term of nine months and up to a maximum term of
 8 18 months.

9 (C) The serious offender III is defined as an offender adjudicated as a
 10 juvenile offender for an offense which, if committed by an adult, would
 11 constitute a nondrug severity level 7, 8, 9 or 10 person felony with one
 12 prior felony adjudication. Offenders in this category may only be
 13 committed to a juvenile correctional facility if such offenders are assessed
 14 as high-risk on a risk and needs assessment. Offenders in this category
 15 may be committed to a juvenile correctional facility for a minimum term
 16 of six months and up to a maximum term of 12 months.

17 (3) *Chronic Offenders.* (A) The chronic offender I, chronic felon is
 18 defined as an offender adjudicated as a juvenile offender for an offense:

19 (i) Which, if committed by an adult, would constitute one present
 20 nonperson felony adjudication and two prior felony adjudications;

21 (ii) committed prior to July 1, 2012, which, if committed by an adult
 22 prior to July 1, 2012, would constitute one present drug severity level 3
 23 felony adjudication and two prior felony adjudications; or

24 (iii) committed on or after July 1, 2012, which, if committed by an
 25 adult on or after July 1, 2012, would constitute one present drug severity
 26 level 4 felony adjudication and two prior felony adjudications.

27 ~~Offenders in this category may only be committed to a juvenile~~
 28 ~~correctional facility if such offenders are assessed as high-risk on a risk~~
 29 ~~and needs assessment.~~ Offenders in this category may be committed to a
 30 juvenile correctional facility for a minimum term of six months and up to a
 31 maximum term of 12 months.

32 (b) *Conditional Release.* If the court elects, a period of conditional
 33 release may also be ordered pursuant to K.S.A. 38-2361, and amendments
 34 thereto. The period of conditional release shall be limited to a maximum of
 35 six months and shall be subject to graduated responses. The presumption
 36 upon release shall be a return to the juvenile's home, unless the case plan
 37 developed pursuant to K.S.A. 38-2373, and amendments thereto,
 38 recommends a different reentry plan.

39 (1) Upon finding the juvenile violated a requirement or requirements
 40 of conditional release, the court may enter one or more of the following
 41 orders:

42 (A) Recommend additional conditions be added to those of the
 43 existing conditional release.

1 (B) Order the offender to serve a period of detention pursuant to
2 K.S.A. 38-2361(g), and amendments thereto.

3 (C) Revoke or restrict the juvenile's driving privileges as described in
4 K.S.A. 38-2361(c), and amendments thereto.

5 (2) Discharge the offender from the custody of the secretary of
6 corrections, release the secretary of corrections from further
7 responsibilities in the case and enter any other appropriate orders.

8 (c) As used in this section "adjudication" includes out-of-state
9 juvenile adjudications. An out-of-state offense, which if committed by an
10 adult would constitute the commission of a felony or misdemeanor, shall
11 be classified as either a felony or a misdemeanor according to the
12 adjudicating jurisdiction. If an offense which if committed by an adult
13 would constitute the commission of a felony is a felony in another state, it
14 will be deemed a felony in Kansas. The state of Kansas shall classify the
15 offense, which if committed by an adult would constitute the commission
16 of a felony or misdemeanor, as person or nonperson. In designating such
17 offense as person or nonperson, reference to comparable offenses shall be
18 made. If the state of Kansas does not have a comparable offense, the out-
19 of-state adjudication shall be classified as a nonperson offense.

20 (d) The secretary of corrections shall work with the community to
21 provide on-going support and incentives for the development of additional
22 evidence-based community practices and programs to ensure that the
23 juvenile correctional facility is not frequently utilized.

24 (e) There shall be a rebuttable presumption that all offenders in the
25 chronic offender category and offenders at least 10 years of age but less
26 than 14 years of age in the serious offender II or III category, shall be
27 placed in the custody of the secretary for placement in a youth residential
28 facility in lieu of placement in the juvenile correctional facility. This
29 presumption may be rebutted by a finding on the record that the juvenile
30 offender poses a significant risk of physical harm to another.

31 Sec. 3. K.S.A. 2024 Supp. 38-2391 is hereby amended to read as
32 follows: 38-2391. (a) Upon adjudication as a juvenile offender pursuant to
33 K.S.A. 38-2356, and amendments thereto, modification of sentence
34 pursuant to K.S.A. 38-2367, and amendments thereto, or violation of a
35 condition of sentence pursuant to K.S.A. 38-2368, and amendments
36 thereto, the court may impose one or more of the sentencing alternatives
37 under K.S.A. 38-2361, and amendments thereto, for a period of time
38 pursuant to this section and K.S.A. 38-2369, and amendments thereto. The
39 period of time ordered by the court shall not exceed the overall case length
40 limit.

41 (b) Except as provided in subsection (c), the overall case length limit
42 shall be calculated based on the adjudicated offense and the results of a
43 risk and needs assessment, as follows:

1 (1) Offenders adjudicated for a misdemeanor may remain under the
2 jurisdiction of the court for up to 12 months;

3 (2) low-risk and moderate-risk offenders adjudicated for a felony may
4 remain under court jurisdiction for up to 15 months; and

5 (3) high-risk offenders adjudicated for a felony may remain under
6 court jurisdiction for up to 18 months.

7 (c) There shall be no overall case length limit for a juvenile
8 adjudicated for a felony which, if committed by an adult, would constitute
9 an off-grid felony or a nondrug severity level 1 through 4 person felony.

10 (d) When a juvenile is adjudicated for multiple counts, the maximum
11 overall case length shall be calculated based on the most severe
12 adjudicated count or any other adjudicated count at the court's discretion.
13 The court shall not run multiple adjudicated counts consecutively.

14 (e) When the juvenile is adjudicated for multiple cases
15 simultaneously, the court shall run such cases concurrently.

16 (f) Upon expiration of the overall case length limit as defined in
17 subsection (b), the court's jurisdiction terminates and shall not be
18 extended, except as provided in subsection (g)(2).

19 (g) (1) For the purposes of placing juvenile offenders on probation
20 pursuant to K.S.A. 38-2361, and amendments thereto, the court shall
21 establish a specific term of probation as specified in this subsection based
22 on the most serious adjudicated count in combination with the results of a
23 risk and needs assessment, as follows, except that the term of probation
24 shall not exceed the overall case length limit:

25 (A) Low-risk and moderate-risk offenders adjudicated for a
26 misdemeanor and low-risk offenders adjudicated for a felony may be
27 placed on probation for a term up to six months;

28 (B) high-risk offenders adjudicated for a misdemeanor and moderate-
29 risk offenders adjudicated for a felony may be placed on probation for a
30 term up to nine months; and

31 (C) high-risk offenders adjudicated for a felony may be placed on
32 probation for a term up to 12 months.

33 (2) The court may extend the term of probation if a juvenile needs
34 time to complete an evidence-based program as determined to be
35 necessary based on the results of a validated risk and needs assessment
36 and, if necessary, may extend the overall case length limit to allow for
37 completion of such program when failure to complete such program is due
38 to a repeated, intentional effort to delay by the juvenile as reported by the
39 evidence-based services provider. The court may also extend the term of
40 probation for good cause shown for one month for low-risk offenders,
41 three months for moderate-risk offenders and six months for high-risk
42 offenders. Prior to extension of the initial probationary term, the court
43 shall find and enter into the written record the criteria permitting extension

1 of probation. Extensions of probation and the overall case length limit
2 shall only be granted incrementally. When the court extends the term of
3 probation for a juvenile offender, the court services officer or community
4 correctional services officer responsible for monitoring such juvenile
5 offender shall record the reason given for extending probation. Court
6 services officers shall report such records to the office of judicial
7 administration, and community correctional services officers shall report
8 such records to the department of corrections. The office of judicial
9 administration and the department of corrections shall report such recorded
10 data to the Kansas juvenile justice oversight committee on a quarterly
11 basis.

12 (3) The probation term limits do not apply to those offenders
13 adjudicated for an offense which, if committed by an adult, would
14 constitute an off-grid crime, rape as defined in K.S.A. 21-5503(a)(1), and
15 amendments thereto, aggravated criminal sodomy as defined in K.S.A. 21-
16 5504(b)(3), and amendments thereto, or murder in the second degree as
17 defined in K.S.A. 21-5403, and amendments thereto. Such offenders may
18 be placed on probation for a term consistent with the overall case length
19 limit.

20 (4) The probation term limits and overall case length limits provided
21 in this section shall be tolled during any time that the offender has
22 absconded from supervision while on probation, and the time on such
23 limits shall not start to run again until the offender is located and brought
24 back to the jurisdiction.

25 (h) For the purpose of placing juvenile offenders in detention
26 pursuant to K.S.A. 38-2361 and 38-2369, and amendments thereto, the
27 court shall establish a specific term of detention. The term of detention
28 shall not exceed the overall case length limit or the cumulative detention
29 limit. Cumulative detention use shall be limited to a maximum of ~~45~~ 90
30 days over the course of the juvenile offender's case, except that there shall
31 be no limit on cumulative detention for juvenile offenders adjudicated for
32 a felony which, if committed by an adult, would constitute an off-grid
33 felony or a nondrug severity level 1 through 4 person felony.

34 (i) The provisions of this section shall apply upon disposition or 15
35 days after adjudication, whichever is sooner, unless the juvenile fails to
36 appear for such juvenile's dispositional hearing. If a juvenile fails to appear
37 at such juvenile's dispositional hearing, the probation term limits and
38 overall case length limits provided in this section shall not apply until the
39 juvenile is brought before the court for disposition in such juvenile's case.

40 (j) This section shall be a part of and supplemental to the revised
41 Kansas juvenile justice code.

42 Sec. 4. K.S.A. 2024 Supp. 38-2392 is hereby amended to read as
43 follows: 38-2392. (a) The department of corrections shall, in consultation

1 with the supreme court, adopt rules and regulations ~~by January 1, 2017~~, for
2 a statewide system of structured community-based graduated responses for
3 technical violations of probation, violations of conditional release and
4 violations of a condition of sentence by juveniles. Such graduated
5 responses shall be utilized by community supervision officers to provide a
6 continuum of community-based responses. These responses shall include
7 sanctions that are swift and certain to address violations based on the
8 severity of the violation as well as incentives that encourage positive
9 behaviors. Such responses shall take into account the juvenile's risks and
10 needs. The court services officer or community correctional services
11 officer shall immediately notify the court and shall submit in writing a
12 report showing in what manner the juvenile has violated probation,
13 conditional release or a condition of sentence.

14 (b) (1) Except as provided in paragraph (4), when a juvenile is placed
15 on probation pursuant to K.S.A. 38-2361, and amendments thereto,
16 community supervision officers shall utilize graduated responses, targeted
17 to the juvenile's risks and needs based on the results of a risk and needs
18 assessment to address technical violations. A technical violation shall only
19 be considered by the court for revocation if:

20 (A) It is a third or subsequent technical violation;

21 (B) prior failed responses are documented in the juvenile's case plan;
22 and

23 (C) the community supervision officer has determined and
24 documented that graduated responses to the violation will not suffice.

25 (2) Unless a juvenile poses a significant risk of physical harm to
26 another or damage to property, community supervision officers shall issue
27 a summons rather than request a warrant on a third or subsequent technical
28 violation subject to review by the court.

29 (3) Absconding from supervision shall not be considered a technical
30 violation of probation and, after reasonable efforts to locate a juvenile that
31 has absconded are unsuccessful, the court may issue a warrant for the
32 juvenile pursuant to K.S.A. 38-2342, and amendments thereto.

33 (4) When a juvenile is placed on probation pursuant to K.S.A. 38-
34 2361, and amendments thereto, a judge may commit such juvenile to
35 detention for a violation of probation, *including a technical violation*, and
36 for contempt of court if the judge makes a finding that the juvenile is
37 demonstrating escalating use of physical violence, aggression, weapons,
38 damage to property or life-threatening substances. A juvenile may be
39 committed to detention for a period not to exceed:

40 (A) 24 hours for a first violation;

41 (B) 48 hours for a second violation; and

42 (C) 15 days for a third or subsequent violation.

43 (c) When a juvenile is placed on probation pursuant to K.S.A. 38-

1 2361, and amendments thereto, the community supervision officer
2 responsible for oversight of the juvenile shall develop a case plan in
3 consultation with the juvenile and the juvenile's family. The department for
4 children and families and local board of education may participate in the
5 development of the case plan when appropriate.

6 (1) Such case plan shall incorporate the results of the risk and needs
7 assessment, referrals to programs, documentation on violations and
8 graduated responses and shall clearly define the role of each person or
9 agency working with the juvenile.

10 (2) If the juvenile is later committed to the custody of the secretary,
11 the case plan shall be shared with the juvenile correctional facility.

12 (d) This section shall be a part of and supplemental to the revised
13 Kansas juvenile justice code.

14 Sec. 5. K.S.A. 75-7023 is hereby amended to read as follows: 75-
15 7023. (a) The secretary for children and families may contract with the
16 secretary of corrections to provide for the juvenile intake and assessment
17 system and programs for children in need of care. Except as provided
18 further, the secretary of corrections shall promulgate rules and regulations
19 for the juvenile intake and assessment system and programs concerning
20 juvenile offenders. If the secretary contracts with the office of judicial
21 administration to administer the juvenile intake and assessment system and
22 programs concerning juvenile offenders, the supreme court administrative
23 orders shall be in force until such contract ends and the rules and
24 regulations concerning juvenile intake and assessment system and
25 programs concerning juvenile offenders have been adopted.

26 (b) Except as otherwise provided in this subsection, records, reports
27 and information obtained as a part of the juvenile intake and assessment
28 process shall not be admitted into evidence in any proceeding and shall not
29 be used in a child in need of care proceeding or a juvenile offender
30 proceeding.

31 (1) Such records, reports and information may be used in a child in
32 need of care proceeding for diagnostic and referral purposes and by the
33 court in considering dispositional alternatives. If the records, reports or
34 information are in regard to abuse or neglect, which is required to be
35 reported under K.S.A. 38-2223, and amendments thereto, such records,
36 reports or information may then be used for any purpose in a child in need
37 of care proceeding pursuant to the revised Kansas code for care of
38 children.

39 (2) Such records, reports and information may be used in a juvenile
40 offender proceeding only if such records, reports and information are in
41 regard to the possible trafficking of a runaway. Such records, reports and
42 information in regard to the possible trafficking of a runaway shall be
43 made available to the appropriate county or district attorney and the court,

1 and shall be used only for diagnostic and referral purposes.

2 (c) Upon a juvenile being taken into custody pursuant to K.S.A. 38-
3 2330, and amendments thereto, a juvenile intake and assessment worker
4 shall complete the intake and assessment process, making release and
5 referral determinations as required by supreme court administrative order
6 or district court rule, or except as provided above [in] rules and regulations
7 established by the secretary of corrections.

8 (d) Except as provided in subsection (g) and in addition to any other
9 information required by the supreme court administrative order, the
10 secretary for children and families, the secretary of corrections or by the
11 district court of such district, the juvenile intake and assessment worker
12 shall collect the following information either in person or over two-way
13 audio or audio-visual communication:

14 (1) The results of a standardized detention risk assessment tool
15 pursuant to K.S.A. 38-2302, and amendments thereto, if detention is being
16 considered for the juvenile, such as the problem oriented screening
17 instrument for teens;

18 (2) criminal history, including indications of criminal gang
19 involvement;

20 (3) abuse history;

21 (4) substance abuse history;

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

23 (6) educational history;

24 (7) medical history;

25 (8) family history; and

26 (9) the results of other assessment instruments as approved by the
27 secretary.

28 (e) After completion of the intake and assessment process for such
29 child, the intake and assessment worker shall make both a release and a
30 referral determination:

31 (1) Release the child to the custody of the child's parent, other legal
32 guardian or another appropriate adult.

33 (2) Conditionally release the child to the child's parent, other legal
34 guardian or another appropriate adult if the intake and assessment worker
35 believes that if the conditions are met, it would be in the child's best
36 interest to release the child to such child's parent, other legal guardian or
37 another appropriate adult; and the intake and assessment worker has
38 reason to believe that it might be harmful to the child to release the child to
39 such child's parents, other legal guardian or another appropriate adult
40 without imposing the conditions. The conditions may include, but not be
41 limited to the alternatives listed in K.S.A. 38-2331(b), and amendments
42 thereto, and the following:

43 (A) Participation of the child in counseling;

- 1 (B) participation of members of the child's family in counseling;
- 2 (C) participation by the child, members of the child's family and other
3 relevant persons in mediation;
- 4 (D) provision of outpatient treatment for the child;
- 5 (E) referral of the child and the child's family to the secretary for
6 children and families for services and the agreement of the child and
7 family to accept and participate in the services offered;
- 8 (F) referral of the child and the child's family to available community
9 resources or services and the agreement of the child and family to accept
10 and participate in the services offered;
- 11 (G) requiring the child and members of the child's family to enter into
12 a behavioral contract which may provide for regular school attendance
13 among other requirements; or
- 14 (H) any special conditions necessary to protect the child from future
15 abuse or neglect.
- 16 (3) Deliver the child to a shelter facility or a licensed attendant care
17 center along with the law enforcement officer's written application for a
18 maximum stay of up to 72 hours. The shelter facility or licensed attendant
19 care facility shall then have custody as if the child had been directly
20 delivered to the facility by the law enforcement officer pursuant to K.S.A.
21 38-2232, and amendments thereto.
- 22 (4) The intake and assessment worker shall also refer the juvenile's
23 case to one of the following:
- 24 (A) An immediate intervention program pursuant to K.S.A. 38-
25 2346(b), and amendments thereto;
- 26 (B) the county or district attorney for appropriate proceedings to be
27 filed, with or without a recommendation that the juvenile be considered for
28 alternative means of adjudication programs pursuant to K.S.A. 38-2389,
29 and amendments thereto, or immediate intervention pursuant to K.S.A. 38-
30 2346, and amendments thereto; or
- 31 (C) refer the child and family to the secretary for children and
32 families for investigations in regard to the allegations.
- 33 (f) The secretary of corrections, in conjunction with the office of
34 judicial administration, shall develop, implement and validate on the
35 Kansas juvenile population, a statewide detention risk assessment tool.
- 36 (1) The assessment shall be conducted for each youth under
37 consideration for detention and may only be conducted by a juvenile
38 intake and assessment worker who has completed training to conduct the
39 detention risk assessment tool.
- 40 (2) The secretary and the office of judicial administration shall
41 establish cutoff scores determining eligibility for placement in a juvenile
42 detention facility or for referral to a community-based alternative to
43 detention and shall collect and report data regarding the use of the

1 detention risk assessment tool.

2 (3) (A) The detention risk assessment tool includes an override
3 function that may be approved by the court for use under certain
4 circumstances. If approved by the court, the juvenile intake and
5 assessment worker or the court may override the detention risk assessment
6 tool score in order to direct placement in a short-term shelter facility, a
7 community-based alternative to detention or, subject to K.S.A. 38-2331,
8 and amendments thereto, a juvenile detention facility. Such override must
9 be documented, include a written explanation and receive approval from
10 the director of the intake and assessment center or the court.

11 (B) *The court shall approve an override function of the detention risk*
12 *assessment tool for use when a juvenile is alleged to have possessed or*
13 *used a firearm during the commission of an offense. In such an instance,*
14 *the juvenile intake and assessment worker or the court shall override the*
15 *detention risk assessment tool score to order direct placement in a juvenile*
16 *detention facility.*

17 (4) If a juvenile meets one or more eligibility criteria for detention or
18 referral to a community-based alternative to detention, the person with
19 authority to detain shall maintain discretion to release the juvenile if other
20 less restrictive measures would be adequate.

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

24 (h) Every juvenile intake and assessment worker shall receive
25 training in evidence-based practices, including, but not limited to:

- 26 (1) Risk and needs assessments;
- 27 (2) individualized diversions based on needs and strengths;
- 28 (3) graduated responses;
- 29 (4) family engagement;
- 30 (5) trauma-informed care;
- 31 (6) substance abuse;
- 32 (7) mental health; and
- 33 (8) special education.

34 Sec. 6. K.S.A. 38-2361, 38-2369 and 75-7023 and K.S.A. 2024 Supp.
35 38-2391 and 38-2392 are hereby repealed.

36 Sec. 7. This act shall take effect and be in force from and after its
37 publication in the statute book.