

HOUSE BILL No. 2329

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; providing for increased placement of juvenile
3 offenders in non-foster home beds in youth residential facilities;
4 requiring the secretary of corrections to pay for the costs associated
5 with such placements; authorizing the secretary to make expenditures
6 from the evidence-based programs account of the state general fund
7 moneys to contract for such beds in youth residential facilities;
8 amending K.S.A. 38-2361, 38-2365, 38-2369 and 38-2399 and K.S.A.
9 2024 Supp. 75-52,164 and repealing the existing sections.

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

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

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

31 (2) Order the juvenile to participate in a community based program
32 available in such judicial district subject to the terms and conditions the
33 court deems appropriate. This alternative shall not be ordered with the
34 alternative in paragraph (1). Requirements pertaining to child support
35 may apply if custody is vested with other than a parent.

1 (3) Place the juvenile in the custody of a parent or other suitable
2 person, which is not a group home or other facility licensed pursuant to
3 article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments
4 thereto, subject to terms and conditions consistent with juvenile justice
5 programs in the community. This alternative shall not be ordered with the
6 alternative in paragraph (10) or (11). Requirements pertaining to child
7 support may apply if custody is vested with other than a parent.

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

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

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

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

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

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

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

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

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

1 maximum of six months and shall be subject to graduated responses.
2 Twenty-one days prior to the juvenile's release from a juvenile correctional
3 facility, the secretary of corrections or designee shall notify the court of the
4 juvenile's anticipated release date. This alternative may be ordered with the
5 alternative in paragraph (7). Requirements pertaining to child support shall
6 apply under this alternative.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 commitment every seven days and may shorten the initial commitment or
2 extend the commitment. In no case, however, may the term of detention or
3 any extension thereof exceed the cumulative detention limit of 45 days or
4 the overall case length limit.

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

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

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

18 (j) Except as further provided, if a juvenile has been adjudged to be a
19 juvenile offender for an offense which, if committed by an adult would
20 constitute the commission of: (1) Aggravated human trafficking, as defined
21 in K.S.A. 21-5426(b), and amendments thereto, if the victim is less than 14
22 years of age; (2) rape, as defined in K.S.A. 21-5503(a)(3), and
23 amendments thereto; (3) aggravated indecent liberties with a child, as
24 defined in K.S.A. 21-5506(b)(3), and amendments thereto; (4) aggravated
25 criminal sodomy, as defined in K.S.A. 21-5504(b)(1) or (b)(2), and
26 amendments thereto; (5) commercial sexual exploitation of a child, as
27 defined in K.S.A. 21-6422, and amendments thereto, if the victim is less
28 than 14 years of age; (6) sexual exploitation of a child, as defined in
29 K.S.A. 21-5510(a)(1) or (a)(4), and amendments thereto, if the victim is
30 less than 14 years of age; or (7) an attempt, conspiracy or criminal
31 solicitation, as defined in K.S.A. 21-5301, 21-5302 or 21-5303, and
32 amendments thereto, of an offense defined in paragraphs (1) through (6);
33 the court shall issue an order prohibiting the juvenile from attending the
34 attendance center that the victim of the offense attends. If only one
35 attendance center exists, for which the victim and juvenile are eligible to
36 attend, in the school district where the victim and the juvenile reside, the
37 court shall hear testimony and take evidence from the victim, the juvenile,
38 their families and a representative of the school district as to why the
39 juvenile should or should not be allowed to remain at the attendance center
40 attended by the victim. After such hearing, the court may issue an order
41 prohibiting the juvenile from attending the attendance center that the
42 victim of the offense attends.

43 (k) The court may order a short-term alternative placement of a

1 juvenile pursuant to subsection (a)(3) in an emergency shelter, therapeutic
 2 foster home or community integration program if:

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

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

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

9 (C) commercial sexual exploitation of a child, as defined in K.S.A.
 10 21-6422, and amendments thereto, if the victim is less than 14 years of
 11 age;

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

15 (E) aggravated indecent liberties with a child, as defined in K.S.A.
 16 21-5506, and amendments thereto, if the victim is less than 14 years of
 17 age; or

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

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

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

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

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

36 (l) *If the court orders a short-term alternative placement of a juvenile*
 37 *pursuant to subsection (k), the secretary shall be responsible for the costs*
 38 *associated with all aspects of such placement. The secretary shall contract*
 39 *with emergency shelters and therapeutic foster homes in order to facilitate*
 40 *the placement of juvenile offenders pursuant to subsection (k).*

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

43 ~~(m)~~(n) The overall case length limit shall be calculated by the court

1 and entered into the written record when one or more of the sentencing
2 options under this section are imposed. The period fixed by the court
3 pursuant to subsection (a) shall not extend beyond the overall case length
4 limit.

5 Sec. 2. K.S.A. 38-2365 is hereby amended to read as follows: 38-
6 2365. (a) When a juvenile offender has been placed in the custody of the
7 secretary, the secretary shall have a reasonable time to make a placement.
8 If the juvenile offender has not been placed, any party who believes that
9 the amount of time elapsed without placement has exceeded a reasonable
10 time may file a motion for review with the court. In determining what is a
11 reasonable amount of time, matters considered by the court shall include,
12 but not be limited to, the nature of the underlying offense, efforts made for
13 placement of the juvenile offender and the availability of a suitable
14 placement. The secretary shall notify the court, the juvenile's attorney of
15 record and the juvenile's parent, in writing, of the initial placement and any
16 subsequent change of placement as soon as the placement has been
17 accomplished. The notice to the juvenile offender's parent shall be sent to
18 such parent's last known address or addresses. *Except as provided in*
19 *K.S.A. 38-2361(a)(10)*, the court shall have no power to direct a specific
20 placement by the secretary, but may make recommendations to the
21 secretary. *Except as provided in K.S.A. 38-2361(a)(10)*, the secretary may
22 place the juvenile offender in an institution operated by the secretary, a
23 youth residential facility or any other appropriate placement. If the court
24 has recommended an out-of-home placement, the secretary may not return
25 the juvenile offender to the home from which removed without first
26 notifying the court of the plan.

27 (b) If a juvenile is in the custody of the secretary, the secretary shall
28 prepare and present a permanency plan at sentencing or within 30 days
29 thereafter. If the juvenile is 14 years of age or older and the juvenile is
30 able, the secretary shall prepare the permanency plan in consultation with
31 the juvenile. If a permanency plan is already in place under a child in need
32 of care proceeding, the court may adopt the plan under the present
33 proceeding. The written permanency plan shall provide for reintegration of
34 the juvenile into such juvenile's family or, if reintegration is not a viable
35 alternative, for other permanent placement of the juvenile. Reintegration
36 may not be a viable alternative when: (1) The parent has been found by a
37 court to have committed murder in the first degree, K.S.A. 21-3401, prior
38 to its repeal, or K.S.A. 21-5402, and amendments thereto, murder in the
39 second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 21-5403, and
40 amendments thereto, capital murder, K.S.A. 21-3439, prior to its repeal, or
41 K.S.A. 21-5401, and amendments thereto, voluntary manslaughter, K.S.A.
42 21-3403, prior to its repeal, or K.S.A. 21-5404, and amendments thereto,
43 of a child or violated a law of another state which prohibits such murder or

1 manslaughter of a child;

2 (2) the parent aided or abetted, attempted, conspired or solicited to
3 commit such murder or voluntary manslaughter of a child;

4 (3) the parent committed a felony battery that resulted in bodily
5 injury to the juvenile who is the subject of this proceeding or another
6 child;

7 (4) the parent has subjected the juvenile who is the subject of this
8 proceeding or another child to aggravated circumstances as defined in
9 K.S.A. 38-1502, and amendments thereto;

10 (5) the parental rights of the parent to another child have been
11 terminated involuntarily; or

12 (6) the juvenile has been in extended out-of-home placement as
13 defined in K.S.A. 38-2202, and amendments thereto.

14 (c) If the juvenile is placed in the custody of the secretary, the plan
15 shall be prepared and submitted by the secretary. If the juvenile is placed
16 in the custody of a facility or person other than the secretary, the plan shall
17 be prepared and submitted by a court services officer. If the permanency
18 goal is reintegration into the family, the permanency plan shall include
19 measurable objectives and time schedules for reintegration.

20 (d) During the time a juvenile remains in the custody of the secretary,
21 the secretary shall submit to the court, at least every six months, a written
22 report of the progress being made toward the goals of the permanency plan
23 submitted pursuant to subsections (b) and (c) and the specific actions taken
24 to achieve the goals of the permanency plan. If the juvenile is placed in
25 foster care, the court may request the foster parent to submit to the court,
26 at least every six months, a report in regard to the juvenile's adjustment,
27 progress and condition. Such report shall be made a part of the juvenile's
28 court social file. The court shall review the plan submitted by the secretary
29 and the report, if any, submitted by the foster parent and determine
30 whether reasonable efforts and progress have been made to achieve the
31 goals of the permanency plan. If the court determines that progress is
32 inadequate or that the permanency plan is no longer viable, the court shall
33 hold a hearing pursuant to subsection (e).

34 (e) When the secretary has custody of the juvenile, a permanency
35 hearing shall be held no more than 12 months after the juvenile is first
36 placed outside such juvenile's home and at least every 12 months
37 thereafter. Juvenile offenders who have been in extended out-of-home
38 placement shall be provided a permanency hearing within 30 days of a
39 request from the secretary. The court may appoint a guardian ad litem to
40 represent the juvenile offender at the permanency hearing. At the
41 permanency hearing, the court shall determine whether and, if applicable,
42 when the juvenile will be:

43 (1) Reintegrated with the juvenile's parents;

1 (2) placed for adoption;

2 (3) placed with a permanent custodian; or

3 (4) if the juvenile is 16 years of age or older and the secretary has
4 documented compelling reasons why it would not be in the juvenile's best
5 interests for a placement in one of the placements pursuant to paragraphs
6 (1), (2) or (3), placed in another planned permanent arrangement.

7 (f) At each permanency hearing, the court shall:

8 (1) Make a written finding as to whether reasonable efforts have been
9 made to accomplish the permanency goal and whether continued out-of-
10 home placement is necessary for the juvenile's safety;

11 (2) make a written finding as to whether the reasonable and prudent
12 parenting standard has been met and whether the juvenile has regular,
13 ongoing opportunities to engage in age or developmentally appropriate
14 activities. The secretary shall report to the court the steps the secretary is
15 taking to ensure that the reasonable and prudent parenting standard is
16 being met and that the juvenile has regular, ongoing opportunities to
17 engage in age or developmentally appropriate activities, including
18 consultation with the juvenile in an age-appropriate manner about the
19 opportunities of the juvenile to participate in the activities; and

20 (3) if the juvenile is 14 years of age or older, document the efforts
21 made by the secretary to help the juvenile prepare for the transition from
22 custody to a successful adulthood. The secretary shall report to the court
23 the programs and services that are being provided to the juvenile which
24 will help the juvenile prepare for the transition from custody to a
25 successful adulthood.

26 (g) The requirements of this subsection shall apply only if the
27 permanency goal in place at the time of the hearing is another planned
28 permanent arrangement as described in subsection (e)(4). At each
29 permanency hearing held with respect to the juvenile, in addition to the
30 requirements of subsection (f), the court shall:

31 (1) Ask the juvenile, if the juvenile is able, by attendance at the
32 hearing or by report to the court, about the desired permanency outcome
33 for the juvenile;

34 (2) document the intensive, ongoing and, as of the date of the hearing,
35 unsuccessful permanency efforts made by the secretary to return the
36 juvenile home or secure a placement for the juvenile with a fit and willing
37 relative, a legal guardian or an adoptive parent. The secretary shall report
38 to the court the intensive, ongoing and, as of the date of the hearing,
39 unsuccessful efforts made by the secretary to return the juvenile home or
40 secure a placement for the juvenile with a fit and willing relative, a legal
41 guardian or an adoptive parent, including efforts that utilize search
42 technology, including social media, to find biological family members of
43 the children; and

1 (3) make a judicial determination explaining why, as of the date of
2 the hearing, another planned permanent living arrangement is the best
3 permanency plan for the juvenile and provide compelling reasons why it
4 continues to not be in the best interests of the juvenile to return home, be
5 placed for adoption, be placed with a legal guardian or be placed with a fit
6 and willing relative.

7 (h) Whenever a hearing is required under subsection (e), the court
8 shall notify all interested parties of the hearing date, the secretary, foster
9 parent and preadoptive parent or relatives providing care for the juvenile
10 and hold a hearing. If the juvenile is 14 years of age or older, the court
11 shall require notice of the time and place of the permanency hearing be
12 given to the juvenile. Such notice shall request the juvenile's participation
13 in the hearing by attendance or by report to the court. Individuals receiving
14 notice pursuant to this subsection shall not be made a party to the action
15 solely on the basis of this notice and opportunity to be heard. After
16 providing the persons receiving notice an opportunity to be heard, the
17 court shall determine whether the juvenile's needs are being adequately
18 met; whether services set out in the permanency plan necessary for the
19 safe return of the juvenile have been made available to the parent with
20 whom reintegration is planned; and whether reasonable efforts and
21 progress have been made to achieve the goals of the permanency plan.

22 (i) If the court finds reintegration continues to be a viable alternative,
23 the court shall determine whether and, if applicable, when the juvenile will
24 be returned to the parent. The court may rescind any of its prior
25 dispositional orders and enter any dispositional order authorized by this
26 code or may order that a new plan for the reintegration be prepared and
27 submitted to the court. If reintegration cannot be accomplished as
28 approved by the court, the court shall be informed and shall schedule a
29 hearing pursuant to subsection (j). No such hearing is required when the
30 parent voluntarily relinquishes parental rights or agrees to appointment of
31 a permanent guardian.

32 (j) When the court finds any of the following conditions exist, the
33 county or district attorney or the county or district attorney's designee shall
34 file a petition alleging the juvenile to be a child in need of care and
35 requesting termination of parental rights pursuant to the Kansas code for
36 care of children:

37 (1)- The court determines that reintegration is not a viable alternative
38 and either adoption or permanent guardianship might be in the best
39 interests of the juvenile;

40 (2) the goal of the permanency plan is reintegration into the family
41 and the court determines after 12 months from the time such plan is first
42 submitted that progress is inadequate; or

43 (3) the juvenile has been in out-of-home placement for a cumulative

1 total of 15 of the last 22 months, excluding trial home visits and juvenile in
2 runaway status.

3 Nothing in this subsection shall be interpreted to prohibit termination of
4 parental rights prior to the expiration of 12 months.

5 (k) A petition to terminate parental rights is not required to be filed if
6 one of the following exceptions is documented to exist:

7 (1)- The juvenile is in a stable placement with relatives;

8 (2) services set out in the case plan necessary for the safe return of
9 the juvenile have not been made available to the parent with whom
10 reintegration is planned; or

11 (3) there are one or more documented reasons why such filing would
12 not be in the best interests of the juvenile. Documented reasons may
13 include, but are not limited to: The juvenile has close emotional bonds
14 with a parent which should not be broken; the juvenile is 14 years of age
15 or older and, after advice and counsel, refuses to be adopted; insufficient
16 grounds exist for termination of parental rights; the juvenile is an
17 unaccompanied refugee minor; or there are international legal or
18 compelling foreign policy reasons precluding termination of parental
19 rights.

20 Sec. 3. K.S.A. 38-2369 is hereby amended to read as follows: 38-
21 2369. (a) Except as provided in subsection (e) and K.S.A. 38-2361(a)(13),
22 for the purpose of committing juvenile offenders to a juvenile correctional
23 facility, upon a finding by the judge entered into the written order that the
24 juvenile poses a significant risk of harm to another or damage to property,
25 the following placements shall be applied by the judge in the cases
26 specified in this subsection. If used, the court shall establish a specific
27 term of commitment as specified in this subsection. The term of
28 commitment established by the court shall not exceed the overall case
29 length limit. Before a juvenile offender is committed to a juvenile
30 correctional facility pursuant to this section, the court shall administer a
31 risk assessment tool, as described in K.S.A. 38-2360, and amendments
32 thereto, or review a risk assessment tool that was administered within the
33 past six months to the juvenile.

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

42 (B) The violent offender II is defined as an offender adjudicated as a
43 juvenile offender for an offense which, if committed by an adult, would

1 constitute a nondrug severity level 1, 2 or 3 felony. Offenders in this
2 category may be committed to a juvenile correctional facility for a
3 minimum term of 24 months and up to a maximum term of the offender
4 reaching the age of 22 years, six months. The aftercare term for this
5 offender is set at a minimum term of six months and up to a maximum
6 term of the offender reaching the age of 23 years.

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

11 Offenders in this category may be committed to a juvenile correctional
12 facility for a minimum term of 18 months and up to a maximum term of 36
13 months. The aftercare term for this offender is set at a minimum term of
14 six months and up to a maximum term of 24 months.

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

17 (i) Committed prior to July 1, 2012, which, if committed by an adult
18 prior to July 1, 2012, would constitute a drug severity level 1 or 2 felony;
19 or

20 (ii) committed on or after July 1, 2012, which, if committed by an
21 adult on or after July 1, 2012, would constitute a drug severity level 1, 2 or
22 3 felony or a nondrug severity level 5 or 6 person felony.

23 Offenders in this category may be committed to a juvenile correctional
24 facility for a minimum term of nine months and up to a maximum term of
25 18 months.

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

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

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

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

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

1 Offenders in this category may only be committed to a juvenile
2 correctional facility if such offenders are assessed as high-risk on a risk
3 and needs assessment. Offenders in this category may be committed to a
4 juvenile correctional facility for a minimum term of six months and up to a
5 maximum term of 12 months.

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

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

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

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

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

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

25 (c) As used in this section "adjudication" includes out-of-state
26 juvenile adjudications. An out-of-state offense, which if committed by an
27 adult would constitute the commission of a felony or misdemeanor, shall
28 be classified as either a felony or a misdemeanor according to the
29 adjudicating jurisdiction. If an offense which if committed by an adult
30 would constitute the commission of a felony is a felony in another state, it
31 will be deemed a felony in Kansas. The state of Kansas shall classify the
32 offense, which if committed by an adult would constitute the commission
33 of a felony or misdemeanor, as person or nonperson. In designating such
34 offense as person or nonperson, reference to comparable offenses shall be
35 made. If the state of Kansas does not have a comparable offense, the out-
36 of-state adjudication shall be classified as a nonperson offense.

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

41 (e) There shall be a rebuttable presumption that all offenders in the
42 chronic offender category and offenders at least 10 years of age but less
43 than 14 years of age in the serious offender II or III category, shall be

1 placed in the custody of the secretary for placement in a youth residential
 2 facility in lieu of placement in the juvenile correctional facility. *The*
 3 *secretary shall ensure timely placement of such offender in a youth*
 4 *residential facility and shall be responsible for the costs associated with*
 5 *all aspects of such placement in accordance with K.S.A. 38-2399, and*
 6 *amendments thereto, This presumption may be rebutted by a finding on the*
 7 *record that the juvenile offender poses a significant risk of physical harm*
 8 *to another.*

9 Sec. 4. K.S.A. 38-2399 is hereby amended to read as follows: 38-
 10 2399. (a) The secretary of corrections ~~may~~ *shall* contract for use of not
 11 ~~more~~ *less* than ~~50~~ *40* non-foster home beds in youth residential facilities
 12 for placement of juvenile offenders pursuant to K.S.A. 38-2361 ~~(a)(13)~~ *(a)*
 13 *(10) and (a)(12), and amendments thereto.*

14 (b) When contracting for services, the secretary shall:

15 (1) Contract with facilities that have high success rates and decrease
 16 recidivism rates for juvenile offenders;

17 (2) consider contracting for bed space across the entire state to lower
 18 the cost of transportation of juvenile offenders; ~~and~~

19 (3) give priority to existing facilities that are able to meet the
 20 requirements of the secretary for providing residential services to juvenile
 21 offenders-

22 ~~(e) This section shall take effect on and after January 1, 2018;~~

23 (4) *determine regional allocation of non-foster home beds based on*
 24 *the needs of the region utilizing available data on juvenile case filings;*
 25 *and*

26 (5) *be responsible for the costs associated with all aspects of*
 27 *placement of juvenile offenders described in subsection (a).*

28 Sec. 5. K.S.A. 2024 Supp. 75-52,164 is hereby amended to read as
 29 follows: 75-52,164. (a) (1) There is hereby established in the state treasury
 30 the evidence-based programs account of the state general fund, which shall
 31 be administered by the department of corrections.

32 (2) *Except as provided in paragraph (4), all expenditures from the*
 33 *evidence-based programs account of the state general fund shall be for the*
 34 *development and implementation of evidence-based community programs*
 35 *and practices for:*

36 (A) Juvenile offenders and their families;

37 (B) juveniles experiencing behavioral health crisis and their families;

38 (C) children who have been administered a risk and needs assessment
 39 and have been identified as needing services pursuant to K.S.A. 2024
 40 Supp. 38-2292, and amendments thereto; and

41 (D) grants as provided in subsection (e).

42 ~~(2)(3)~~ Evidence-based community programs and practices may be
 43 administered by community supervision offices, juvenile intake and

1 assessment, court services, community corrections, juvenile crisis
2 intervention centers, community mental health centers, community health
3 centers, the youth advocate program, jobs for America's graduates Kansas
4 transition services and any other community-based service provider
5 offering evidence-based community programs.

6 (4) *Subject to provisions of appropriation acts, the secretary of*
7 *corrections shall make expenditures from the evidence-based programs*
8 *account of the state general fund moneys, in an amount not to exceed*
9 *\$10,000,000 in any fiscal year, to contract for non-foster home beds in*
10 *youth residential facilities for placement of juvenile offenders as required*
11 *in K.S.A. 38-2399, and amendments thereto.*

12 ~~(3)~~(5) All expenditures from the evidence-based programs account of
13 the state general fund shall be made in accordance with appropriation acts
14 upon warrants of the director of accounts and reports issued pursuant to
15 vouchers approved by the secretary of corrections or the secretary's
16 designee.

17 (b) At least annually, throughout the year, the secretary of corrections
18 shall determine and certify to the director of accounts and reports the
19 amount in each account of the state general fund of a state agency that has
20 been determined by the secretary to be actual or projected cost savings as a
21 result of cost avoidance resulting from decreased reliance on incarceration
22 in the juvenile correctional facility and placement in youth residential
23 centers. The baseline shall be calculated on the cost of incarceration and
24 placement in fiscal year 2015.

25 (c) Upon receipt of a certification pursuant to subsection (b), the
26 director of accounts and reports shall transfer the amount certified
27 pursuant to subsection (b) from each account of the state general fund of a
28 state agency that has been determined by the secretary of corrections to be
29 actual or projected cost savings to the evidence-based programs account of
30 the state general fund.

31 (d) Prioritization of evidence-based programs account of the state
32 general fund moneys will be given to regions that demonstrate a high rate
33 of out-of-home placement of juvenile offenders per capita that have few
34 existing community-based alternatives.

35 (e) (1) The secretary of corrections shall develop and implement a
36 grant program with the goal of implementing evidence-based community
37 programs described in subsection (a)(2)(D) and promising practices
38 throughout the state, subject to the availability of funding in the evidence-
39 based programs account of the state general fund after other expenditures
40 for evidence-based programs are made. The secretary shall adopt grant
41 requirements in accordance with this section. Any provider of evidence-
42 based community programs for juveniles may apply for a grant. The grant
43 program shall give priority to any county that demonstrates a low

1 availability of evidence-based community programs for juveniles. The
2 secretary shall evaluate the programs that received a grant to ensure the
3 program is being delivered as such program was designed.

4 (2) Child welfare case management providers shall not be eligible to
5 receive grants under this subsection.

6 (f) Expenditures made from the evidence-based programs account of
7 the state general fund shall be made promptly and on a rolling basis to
8 develop and implement evidence-based community programs as services
9 are needed throughout the state *and provide non-foster home beds in youth*
10 *residential facilities for placement of juvenile offenders as required in*
11 *subsection (a).*

12 (g) The evidence-based programs account of the state general fund
13 and any other moneys transferred pursuant to this section shall be used for
14 the purposes set forth in this section and for no other governmental
15 purposes. It is the intent of the legislature that the funds and the moneys
16 deposited in this fund shall remain intact and inviolate for the purposes set
17 forth in this section.

18 Sec. 6. K.S.A. 38-2361, 38-2365, 38-2369 and 38-2399 and K.S.A.
19 2024 Supp. 75-52,164 are hereby repealed.

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